

**SENATE BUDGET COMMITTEE FIELD
HEARINGS FISCAL YEAR 2016**

HEARINGS
BEFORE THE
COMMITTEE ON THE BUDGET
UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

**June 8, 2015-PERSPECTIVE ON BUDGET PROCESS REFORM: S. 1495,
FAIRNESS FOR CRIME VICTIMS ACT OF 2015**

August 26, 2015-FIELD HEARING ON TAX-RELATED IDENTITY



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**PERSPECTIVES ON BUDGET PROCESS RE-
FORM: S. 1495, FAIRNESS FOR CRIME VIC-
TIMS ACT OF 2015**

MONDAY, JUNE 8, 2015

UNITED STATES SENATE,
COMMITTEE ON THE BUDGET,
Washington, D.C.

The committee met, pursuant to notice, at 10:00 a.m., in the Martin G. McGuinn 67 Ceremonial Courtroom, Second Floor, Villanova University School of Law, 299 North Spring Mill Road, Villanova, Pennsylvania, Honorable Pat Toomey, presiding.

Present: Senator Toomey.

Staff Present: Adam Kamp, Chief Clerk; and Gregory Dean, Republican Chief Counsel.

OPENING STATEMENT OF SENATOR TOOMEY

Senator TOOMEY. Good morning. I will call to order this hearing of the Budget Committee of the United States Senate.

I want to, first of all, welcome everyone for being here, for joining us this morning. I want to thank our witnesses. I will provide an introduction and more formal acknowledgement and thanks in just a minute, but I really appreciate your being here and making this possible. And, a big thanks to our host, the Villanova Law School. I really, really appreciate their willingness to provide an outstanding facility so that we can do this.

Just for your information, I am a member of the Senate Budget Committee and the committee has rules that permit individual members to have field hearings across their respective states, but it is unusual to do it. It has to be approved by the leadership of the committee. And, this is the first field hearing that I have done since I have joined the Senate and joined the Budget Committee. But, I have chosen this topic because I feel very, very strongly about it. I think the problem that we are going to discuss this morning and the remedy that we have developed is really very, very important, and I hope that through the discussion this morning we will be able to shed some light on this and call some attention to the situation that we face. So, thank you for helping us to accomplish that.

The fact is, every single year, victims of child abuse, sexual assault, domestic violence, and other crimes do not receive the full services that they need. The fact is, abused children sometimes wait weeks before they can receive the full medical and emotional services that they need. There are rape victims who are not able

to obtain the medication that can prevent them from contracting HIV/AIDS. There are victims fleeing domestic abuse who are unable to find beds for themselves and their children.

And, this does not have to happen this way. Every year, the federal government takes hundreds of millions of dollars, sometimes billions of dollars, that under federal law are required to go to the victims of crime and the government instead diverts those monies to other discretionary spending programs. And, none of this money comes from taxpayers in the first place.

So, you are probably asking yourselves, how can this happen? Well, it happens through the Crime Victims Fund, and I am going to describe this. Back in 1984, Congress created the Crime Victims Fund based on a simple principle, and the principle is that money that the federal government collects from those convicted of crimes should be used to help those who are victims of crime. The Crime Victims Fund receives no taxpayer dollars at all. It is funded entirely by criminal fines and penalties collected in federal courts.

So, even though money deposited in the Crime Victims Fund is supposed to be used only to assist crime victims, for over a decade, Congress has withheld billions of dollars from victims and instead used that money to offset other discretionary spending programs.

For instance, from fiscal years 2010 through 2014, the Crime Victims Fund collected \$12 billion, but dispersed to victims only \$3.6 billion. Congress used the \$8.4 billion difference as an offset for other discretionary spending. And, through a budget gimmick, a gimmick in the rules by which Congress accounts for its spending, Congress represents that this money, money that has already been spent, is still available to the Crime Victims Fund and, therefore, still theoretically available for victims.

Well, this gimmick is troubling from a transparency point of view. It is just dishonest budgeting and it allows Congress to under-report the amount of money that is being spent. But even more troubling is the problem from the victims' services standpoint. As I said, victims of child abuse, sexual assault, domestic violence, and other crimes are routinely unable to access the help that they need because the funds have not been dispersed as they should.

So, we have made some progress in recent years. I was pleased to see, in response to pressure that many of us were putting on the appropriations process, the fiscal year 2015 budget, the Crime Victims Fund allocation was \$2.3 billion, versus \$745 million the previous year. So, we about tripled the allocation from the Crime Victims Fund.

And, in addition, the budget resolution that we just passed a couple of months ago, at my insistence, it dramatically curtails this gimmick for the next fiscal year. So, in 2016, according to our budget resolution, the Crime Victims Fund will disperse about \$2.5 billion. Again, we are holding—actually increasing modestly from last year's level, which is itself three times higher than previous years.

So, what is the impact in Pennsylvania? In 2014, Pennsylvania crime victims services organizations received \$17 million. Next year, that will be \$70 million. So, it is a big increase. It is a good start. It is movement in the right direction.

But, it is only a start because these provisions that caused the increase in fiscal year 2015 and 2016, they are temporary. They expire when the funding expires. They expire at the end of those fiscal years. So, what we need is a permanent legislative fix that simply requires that we end this injustice and we start allocating the funds in the Crime Victims Fund each and every year as the law has always contemplated, but not delivered.

So, to do this, I have introduced a bill. It is called the Fairness to Crime Victims Act of 2015. It is S. 1495. And, it would provide a permanent fix. The bill would ensure that, henceforth, money deposited into the fund goes to crime victims, not to other discretionary spending or budget gimmicks. It would require specifically that each year, the Crime Victims Fund disperse the average of the past three years' collections. So, it smooths out the amounts deposited into the funds each year. That would be over \$2.6 billion for 2016. I have six cosponsors on my legislation, Senators Ayotte, Corker, Crapo, Gardner, Hatch, and Johnson.

And today, I am grateful that we are joined by four advocates for victims of crime, advocates who can inform our committee of the needs of crime victims, the way that they serve crime victims, and including those victims listed as priority groups under the Crime Victims Fund, which are specifically the victims of sexual assault, victims of child abuse, and victims of domestic violence.

So, my hope is, again, that we will shine a bright light on the true cost of this budgetary gimmickry that Congress has undertaken and the true cost is the lost service to crime victims who need this service. If we are successful in shining that light, it is my hope that we will build support in the Senate Budget Committee. I expect that we will have an opportunity to pass this legislation in the committee as soon as the next several weeks, and then it will be a fight to get this on the Senate floor so that we can pass it into law and implement this.

So, again, big thanks to our witnesses. I am going to introduce our—I will introduce each of the witnesses and then I will ask for your testimony, and then we will have time for some questions at the end.

Let me start with Jack Whelan. Jack Whelan is the District Attorney of Delaware County. Jack has been dedicated to criminal justice for decades. Back in the 1980s, when he was an Assistant District Attorney in Delaware County and a trial team leader, he led the respected law firm of Whelan, Doyle, and Pressman. He served two terms as Chairman of the Delaware County Council, where he made public safety a top priority. Since 2011, when he became the District Attorney for Delaware County, Jack has led on several issues, including founding the Delaware County Heroin Task Force to raise awareness about prescription drugs and heroin abuse.

He has received many honors from victims' rights groups and victim advocacy groups. I am very pleased that in April, the Delaware County Children's Advocacy Center had its official opening, and I know that the Children's Advocacy Center appreciates having a talented and dedicated ally in Jack Whelan.

Next, we will hear from Abbie Newman. Abbie is the Executive Director and CEO of Mission Kids Child Advocacy Center of Mont-

gomery County, and Abbie has been a tireless advocate for children. She began her career as a registered nurse practicing pediatrics. But after graduating from law school, she in time became the founding Executive Director of the Mission Kids of Montgomery County and served as the group's Executive Director and CEO to this day. Ms. Newman also served as President of the Pennsylvania Chapter of Child Advocacy Centers from 2012 to 2014, when she was elected as First Chair of the External Affairs Committee of the State Chapter, in which position she continues today.

I want to thank Abbie very much and the other advocates at Child Advocacy Centers throughout Pennsylvania. I have had an opportunity to tour probably six or eight Child Advocacy Centers in Pennsylvania and I have been very, very impressed at how devoted these folks are to serving kids who are the victims of some of the most horrendous circumstances. They really do a wonderful job, and Abbie, I want to thank you for joining us today.

Next, we will hear from Diane Moyer. Diane is the Legal Director at the Pennsylvania Coalition Against Rape. Diane is a fighter and she has been fighting for victims of sexual assault for decades. She served for 18 years as the Legal Director of the Pennsylvania Coalition Against Rape, which is the oldest anti-sexual violence coalition in the nation. The Pennsylvania Coalition Against Rape oversees 50 Rape Crisis Centers in Pennsylvania. I had the opportunity to visit one of these, the Pittsburgh Action Against Rape Center, and saw firsthand the valuable work that they do.

Diane is a board member of the National Crime Victims Law Institute and the National Alliance to End Sexual Violence. She has worked on many pieces of legislation to achieve justice for victims of sexual assault, including legislation on HIV testing of sex offenders, extending civil statute of limitations for child sexual abuse, denial of bail for violent predators, and many others. Diane has also received awards from numerous organizations reflecting the great work that she has done over many years, and she has been invaluable in helping to craft the Fairness for Crime Victims Act. I appreciate all of your help, Diane.

And then, finally, Peg Dierkers. Peg Dierkers is the Executive Director of the Pennsylvania Coalition Against Domestic Violence. Peg is dedicated to providing the best, most innovative and comprehensive service possible for victims of abuse. She has been the Executive Director of the Pennsylvania Coalition Against Domestic Violence, which serves nearly 100,000 victims in Pennsylvania each year, and serves on the Victims Services Advisory Committee for the Pennsylvania Commission on Crime and Delinquency.

Peg and her policy advisor, Abigail Hurst, have been very, very helpful in drafting the Fairness for Crime Victims Act and I look forward to continuing to work with you, Peg, to prevent and assist victims of domestic violence.

So, with that, we will begin our testimony, and first, I would like to hear from District Attorney Jack Whelan.

**STATEMENT OF JACK WHELAN, DISTRICT ATTORNEY,
DELAWARE COUNTY, PENNSYLVANIA**

Mr. WHELAN. Thank you, Senator. I want to start by saying it is an honor for me to appear before you today, and I want to take

the opportunity to thank you for your leadership, not only today for the Fairness for Crime Victims Act, but your past leadership, for example, as you mentioned, in regard to our heroin epidemic here in Delaware County, for your bipartisan efforts on the National All Schedules Prescription Electronic Reporting Reauthorization Act, as well as what we will be talking about a little bit today, the sexual abuse and how you were sponsoring the Protecting Students from Sexual and Violent Predators Act, all which will be very important in Delaware County.

Unfortunately, we are here in Delaware County and it is unfortunate to the extent that we probably are the third highest county in the State of Pennsylvania with our crime hitting 10,000 cases a year and 4,000 separate juvenile cases. So, we are, we believe, statistically speaking, we are third in the state. We have the largest District Attorney's Office after Philadelphia, Pittsburgh, and then we are third in regard to personnel in our efforts to combat crime.

We are very fortunate, though, that we have advocacy groups that we partner with. Those advocacy groups, some of them are here today. Joyce Dale is here with us from Women Against Rape, and the Family Support Line that is running our Child Advocacy Center, Pat Krasinski, and our Domestic Abuse Project. These are victim advocacy agencies, nonprofit groups that work on a daily basis. They work each and every day to support crime victims. We in the District Attorney's Office are fortunate to be able to partner with them so that when we are prosecuting the case, we know that there is a victim advocate for each and every victim of a crime.

To put it in, I guess, a form of a perspective, if you drove here today and you drove and you pulled into Villanova University in your vehicle, and when you leave these hearings today, if you went out and your car was stolen, that would affect you. It is going to seriously inconvenience you. You are a victim of a theft, an auto theft, and it is going to bother you.

But one thing I am told by people that have their car stolen, although it has not been a devastating crime or a devastating impact, each one person that has had their car stolen will never forget the fact that they had their car stolen, and will never forget the fact that when they left Villanova at the Senate committee hearing, that they went out and their car was taken from them and the inconvenience that they suffered.

Now, when you look at that with a simple theft crime and how you feel victimized, and now you compare that to an individual that has been sexually abused, or an individual that has been raped, an individual that has been beaten violently, these individual victims will never, ever forget. Not only will they never forget what happened, but they will never be the same when that crime occurs to them. For the rest of their life, they will never, ever be the same.

So, it is critical to have our victim advocacy groups. These are groups of individuals that operate 24-hour hotlines that the victim can call, even sometimes before the police are involved. It is important, because not only do they encounter that victim, follow that victim through the criminal justice system, they provide services to that victim that no other entity can provide, for example, coun-

seling, whether that counseling be support groups or psychological counseling. All of this is money that is very well spent.

But, one of the complaints or concerns of all of these victims' rights advocacy groups is the fact that we do not have enough resources. We can always use more resources to help the victims here in Pennsylvania. They do an incredible job, and they make ends meet with what they have, but they need more resources.

Recently, as you indicated, the Child Advocacy Center here in Delaware County was opened up and they are now still needing additional resources to help these children. Unfortunately, what we have seen when the Child Advocacy Center opened up is an onslaught of individuals that now are being interviewed. We have a couple of trained forensic interviewers. One is here with us today. However, we need more interviewers. We need more people ready and willing to help to deal with these impacts of child abuse, because the children deserve more. They deserve to be taken care of, into the criminal justice system.

Many times when we thrust these young victims into a very difficult scenario, a situation where they are being placed into a courtroom and we are directly examining them, and then they are cross-examined, then it becomes difficult. The Child Advocacy Center lessens the impact of these individuals. So, it is very important.

We are also happy here in Delaware County that the Internet Crimes Against Children Unit is housed right in Delaware County, in our Criminal Investigation Division, and that is funded by the Department of Justice. And, for many, many years, under the leadership of Congressman Meehan, we have been able to support that through federal funding and continue to go across the State of Pennsylvania, partner with affiliates to make sure that children are not being victimized additionally with Internet applications.

So, when we look at different scenarios that occur, unfortunately, whether it is rape or it is child abuse or it is domestic violence, we are in the throes of all of this and it is important that we continue to be advocates of these victims, and it is important to make sure that the resources are available for all of our victims' groups.

And, I thank you for having this opportunity to address you.

[The prepared statement of Mr. Whelan follows:]

Testimony of Jack Whelan, District Attorney
Delaware County, Pennsylvania

Hearing before the
U.S. Senate Committee on the Budget

June 8, 2015

Good Morning, Senator Toomey,

My name is Jack Whelan. I am the District Attorney for Delaware County, Pennsylvania. In November 2011, I was elected as District Attorney and took office in January 2012, for a four-year term. From 1986-1991, I served as a Delaware County Assistant District Attorney, as a trial team leader. During that time, I prosecuted many defendants for capital offenses as well as for other felonies and misdemeanors. As a practicing attorney for 25 years, I led the firm of Whelan, Doyle & Pressman LLC in the area of civil litigation, municipal representation and decedent estates. Before becoming District Attorney, I served as Chairman of Delaware County Council, which oversees the county government operations that serve the 560,000 residents of Delaware County. I was first elected to a four-year term on County Council in 2005, was re-elected to a second four-year term in 2009 and took the oath of office in January 2010. As Council Chairman, I partnered with the District Attorney's Office on many crime prevention initiatives, such as the Senior Exploitation Unit and the Safe Schools Summit. In 2010, I helped establish the Delaware County Veterans Justice Initiative with the goal of establishing a Veterans Treatment Court to address the post-service needs of veterans who land in the criminal justice system.

I want to thank Chairman Enzi, Ranking Members Sanders, and you, Senator Toomey, for organizing this hearing.

Although the third smallest county by geographical area in the Commonwealth, Delaware County remains the fifth most populous county in the state with a population of more than 560,000. Delaware County can be described as a microcosm of the changing economic and human fabric which makes up most of the country. Delaware County is comprised of working

class and middle class communities, along with a section of upper class neighborhoods. The county also has an inner ring of older suburban communities that have seen a significant influx of immigrant populations, with accompanying cultural and language barriers. Upper Darby, which is the largest township by population in the Commonwealth, has more than 84 native languages that are spoken at the school district's Beverly Hills Elementary School. Delaware County is also home to the city of Chester, the only city in the county. With a population of more than 34,000, Chester today is half the size it once was in its economic and industrial heyday. What is now left is a city suffering from poverty, violence, drug dealing and a financially bankrupt school district, with one of the highest per capita murder rates in the country. With these types of challenges, comes the need for additional crime victims' support and services.

On a daily basis, the District Attorney's Office works closely with Delaware County's 42 separate municipal police departments on public safety initiatives to address the rise in homicides seen in the county. The Office of the District Attorney formed the Anti-Violence Task Force with the mission to provide collaborative programs and resources to assist the community in recognizing and reporting violent crimes.

Also, a review of demographic data shows that the number of Pennsylvanians who are over 65 years of age is rapidly increasing and the wave of seniors is expected to increase in Delaware County over the next ten years. It is a fact that as people get older, they may suffer from poor vision, mental lapses and confusion, physical limitations and isolation. All of these factors can make our seniors the perfect prey for criminals who will take advantage of them through financial exploitation and fraud or harm them through physical abuse or neglect. To combat the problem of rising crime against senior citizens in Delaware County, we created the Senior Exploitation Unit to solely investigate and prosecute those who cheat, abuse or deceive our older residents. Beginning in January 2012 and continuing since that date, the Office of the District Attorney expanded the Senior Exploitation Unit in an effort to better investigate crimes and raise awareness about the illegal schemes perpetrated against seniors and to provide these senior victims with access to services and assistance.

In September 2012, in partnership with Delaware County Council, the Office of the District Attorney formed the Delaware County Heroin Task Force to raise awareness about the epidemic of prescription drug and heroin abuse impacting the nation and the county. Our Task Force has been the driving force behind several opioid prevention and awareness initiatives that have received state-wide recognition, including the implementation of a countywide law enforcement naloxone program. As founder and chairman of the Heroin Task Force, I want to thank you, Senator Toomey, for your work fighting the scourge of opioid abuse, and for co-sponsoring the bipartisan National All Schedules Prescription Electronic Reporting (NASPER) Reauthorization Act, which prevents doctor shopping, and for leading the bipartisan effort to enact a "Patient Review and Restriction" program for Medicare to stop drug diversion and ensure at-risk beneficiaries receive appropriate treatment.

In spring 2015, the Office of the District Attorney assembled a committee that has a vested interest in domestic abuse and how domestic abuse related cases are addressed in the criminal justice system as well as Protection from Abuse (PFA) Court. From a law enforcement perspective, the committee is examining investigative techniques surrounding domestic abuse, from the original response call by the patrol officer, through each step in the criminal justice system.

Additionally, the Domestic Abuse Review Team (DART) is reviewing the law enforcement process of serving Protection from Abuse Orders from inception on through Magisterial District Court and the Court of Common Pleas, to review best practices and to implement change within the criminal justice system. The Delaware County District Attorney's Office recently announced plans to better identify and serve high risk victims of domestic violence in partnership with the Domestic Abuse Project of Delaware County through the implementation of a county-wide Lethality Assessment Program (LAP) for all police officers in Delaware County, a procedure that can help identify threats before violence occurs and save lives.

I want to thank you, Senator Toomey, for your efforts to protect the people of Pennsylvania from violent crime, and ensure victims of crime have the resources they need. As a father of four, I am grateful for your efforts to protect our children from child molesters and other predators infiltrating our classrooms. Last year, 459 teachers and other school employees were arrested for sexual misconduct with children, including 26 Pennsylvania educators. Your bipartisan Protecting Students from Sexual and Violent Predators Act takes two common sense steps: It requires schools that receive federal funds to perform criminal background checks on any employees or contractors who have unsupervised access to children, and it bans the terrible practice of "passing the trash"—where a school knowingly helps a child molester resign quietly obtain a new teaching job elsewhere. The Association of Prosecuting Attorneys, the Pennsylvania District Attorneys Association, and the National District Attorneys Association have endorsed this important bill.

I am pleased to join you in your effort to restore fairness to the Crime Victims Fund, and dramatically increase funds to victims of crime in Pennsylvania.

Crime in Pennsylvania

Every year, we see too many people victimized by crime. In 2013—the last year for which we have complete data—Pennsylvania law enforcement received reports of 42,849 instances of violent crime, including 9,273 instances of child and student abuse, 3,774 rapes, and 23,719 aggravated assaults, and 263,240 reports of property crime such as burglary and car theft.¹

¹ Crime in the United States 2013, Table 5: Crime in the United States by State 2013, available at http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/5tabledatadecpdf/table_5_crime_in_the_united_states_by_state_2013.xls ; Pennsylvania Department of

The year of 2014 was one of the deadliest in Delaware County, with the loss of 49 people at the hands of another. Six of the 10 women murdered in 2014 were killed in domestic incidents, an unusually high number for Delaware County which doubled last year, as compared to 2013.

In August 2014, 28 year-old Christina Corrigan-Belajonas was repeatedly stabbed by her husband and fatally shot in the head in front of their two sons, ages 4 and 5, at their home in Drexel Hill. He left her to die and fled to New York abandoning their sons at a CVS and later died of a self-inflicted gunshot wound while police were in pursuit.

In December 2014, Stephen Rozniakowski, an officer with the Colwyn Borough Police Department, allegedly shot and killed his former girlfriend, Valerie Morrow, 40, and wounded her 15-year-old daughter. According to the investigation, he became enraged after he found out Valerie, his former girlfriend, had purchased a new car with her husband. In the days before her death, he phoned her 60 times and sent her 20 emails while she was at work. The harassment continued and Valerie Morrow applied for a protection-from-abuse order in fear of her life. Just days later, Stephen Rozniakowski, wearing a bulletproof vest and armed with a .40-caliber handgun, kicked down the door of the Morrow's home in Glenolden, Pennsylvania and began firing, killing Valerie and wounding her daughter. The shooting occurred hours after he was served the order and days before he was due in court in a separate stalking case involving a Montgomery County woman.

These are just two tragic stories of the domestic related homicides that have occurred in Delaware County. As a prosecutor, I see the devastating effects of domestic related crime first hand and far too often. Many of the cases we prosecute are heartbreaking and frustrating.

We believe lives can be saved through the two-pronged intervention approach of Lethality Assessment Protocol (LAP) in which first responders to domestic violence calls conduct a research-based lethality screening to determine if there is a high risk of the victims being seriously injured or killed, and if necessary, immediately connecting victims with advocates for support and safety information. While several police departments already have LAP pilot programs underway, including Norwood Borough, Collingdale Borough and Marple Township, the Domestic Abuse Project of Delaware County, is providing training for officers with the goal to have every responding officer trained in conducting the assessment and implementing the protocol. The lethality assessment is an easy and effective tool that helps identify threats before violence occurs. With practices like this in place, we will definitely save lives.

We prosecutors know that we are just a part of the victim's path toward justice and healing. Putting offenders behind bars is a crucial to vindicating victims' rights, but it is only one part of a victim's long journey to recovery. Victims often need medical care for wounds from violent

crime, mental health counseling, repairs to their homes and other assistance. The Crime Victims Fund pays a crucial role in a victim's process of healing.

Since the Delaware County Domestic Abuse Project was established 36 years ago, it has grown to include help for battered men and children as well as women from all walks of life. The Domestic Abuse Project of Delaware County (DAP) offers free services to victims of abuse, including help navigating the legal system and obtaining protection orders. The group also provides emergency housing for victims and their children at several shelters at secure and anonymous locations. The Domestic Abuse Project of Delaware County (DAP) has provided assistance to 3,608 victims in the 2014 fiscal year alone during which DAP attorneys made 362 court appearances, 146 victims were assisted with temporary protection from abuse orders and 164 clients were represented for final Protection from Abuse orders. In addition, 3,211 nights of emergency shelter were provided to 56 women and 75 children.

We believe that the lethality assessment program will keep victims of domestic violence safe by encouraging more victims to use the support services available. Once trained, the police officer arriving on the scene of a domestic violence incident will assess the situation. If factors indicate danger exist, the officer will ask the victim a series of questions to identify the level of danger each victim has of being killed. Victims who answer yes to one of the first three questions are considered to be at high-risk. Victims who answer yes to four of the next eight questions are also considered to be in danger. LAP protocol then directs law enforcement to initiate the intervention and connect high-risk victims with the domestic violence hotline, where the victim will immediately be connected with services. The program originated in Maryland by a team of researchers who identified several factors that indicate an increased risk of homicide by an intimate partner. In Maryland, where every law enforcement agency participates in the program, domestic violence deaths have dropped by an average of 34 percent over the past five years.

When an innocent child is the victim of a sexual crime, it takes great courage to tell someone about the painful ordeal. In the past, the forensic process often resulted in the young victim having to recount the horrific incident to countless investigators and child welfare workers, causing them even more trauma. The victims and their families were often sent from one agency to another, from the police department to the hospital to children's social services to the therapist's office.

Since April 2015, young victims in Delaware County have been able to be served in one safe place, the Delaware County Children's Advocacy Center (DCCAC). The center is a neutral, child-friendly setting where the team of law enforcement officers and social service professionals can coordinate their response to child-sex-abuse cases. The new Center, at 100 W. Sixth St., Media, is operated by Family Support Line, an agency that has been serving young victims of sexual abuse for 25 years, providing abuse prevention programs and therapy sessions for the victims and their families. The multi-disciplinary teams are made up of law enforcement officers,

child protective service personnel, prosecutors, lawyers, advocates, mental health therapists and medical personnel. A specially trained forensic interviewer meets with the child in one room, equipped with video cameras, while the team can observe from a different room. Interviews are recorded reducing the number of times the child needs to be interviewed. The process is accredited by the National Children's Alliance. Information gathered in the forensic interview is used to help make decisions about protection, prosecution and treatment.

The Delaware County CAC is the result of two years of collaborative planning among several agencies. I would like thank you, Senator Toomey, for your strong support of the creation of CACs across the nation. In late April 2015, the Senate passed the Justice for Victims of Trafficking Act, which you staunchly supported and co-sponsored. This bill ensures that a portion of the funds confiscated from perpetrators of crimes are used those funds to set up CACs.

The Crime Victims Fund

The Crime Victims Fund was created in 1984: It was approved by overwhelming, bipartisan votes in both the U.S. House of Representatives and the U.S. Senate, and signed into law by President Ronald Reagan.

The Crime Victims Fund is based on a simple idea: Money the government collects from those who commit crimes should be used to help those victimized by crime. Each year, criminal fines and penalties collected by the federal government are deposited into the Crime Victims Fund. The Fund receives no taxpayer dollars.

Under federal law, money deposited into the Crime Victims Fund may only be used to assist crime victims. DOJ disburses money from the Fund to various groups to provide services to victims of crime. The U.S. Justice Department makes some grants directly to victim service groups. The bulk of the money disbursed from the Crime Victims Fund goes to States for victim compensation and victim assistance services:

- Victim compensation is money paid directly to victims of crime to offset the costs of medical care, mental health counseling, loss of earnings, funeral costs, childcare, relocation expenses, and other direct effects of crime.²
- Victim assistance is money paid to victim service groups, including Child Advocacy Centers, rape crisis centers, and domestic violence shelters.

Federal statute recognizes that certain crimes are especially damaging to victims, and require extensive services. Accordingly, the statute creating the Crime Victims Fund designates three priority groups to receive services: victims of child abuse, victims of rape and sexual assault, and victims of domestic violence.

² Pennsylvania Commission on Crime and Delinquency, Victim Services: Victims Compensation Assistance Program, *available at* <http://www.pccd.pa.gov/Victim-Services/Pages/Victims-Compensation-Assistance-Program-%28VCAP%29.aspx#.VWoR8kZUdY>.

For the first 15 years, the Crime Victims Fund worked roughly as it should: Each year, the Crime Victims Fund disbursed what it brought in the prior year.

That changed in fiscal year 2000. Since then, each year, Congress has taken hundreds of millions of dollars that, under federal law, must go to victims of child abuse, domestic violence, sexual assault, and other crimes. Congress uses this money for other discretionary spending—despite the fact that federal law says money deposited into the Fund may only be used to assist crime victims through the Fund.

For example, from fiscal year 2010 through fiscal year 2014, the Crime Victims Fund collected \$12 billion, but gave crime victims only \$3.6 billion (or 30%). Congress used the \$8.4 billion difference for other, discretionary spending in the CJS Appropriations Bill.

At the same time, through a budget gimmick, Congress pretends the money is still in the Crime Victims Fund. It tells the American people that money Congress has already spent years ago, has not been spent, and is still sitting there in the Crime Victims Fund, available for victims.

This is troubling from a transparency standpoint: As a taxpayer, it is frustrating to know that every year, Congress is under-reporting the true size of the budget deficit by pretending money it has already spent is still there.

This is even more troubling from the standpoint of a victim advocate. The fact that Congress might make money available at some point years and years in the future is no consolation to victims who desperately need help now. A child who has been physically or sexually abused needs help now. A woman seeking medical and emotional support at a rape crisis center needs help now. A woman and her child seeking a bed at a domestic violence shelter, to escape an abuser, needs a place to stay now.

Unfortunately, year after year after year, victims have not received the help they need—and that federal law entitles them to—because Congress has diverted money from CVF.

Restoring Fairness to the Crime Victims Fund

I am glad to have this opportunity to work with you to increase the amount of money released from the Crime Victims Fund.

I was pleased to see the Budget Resolution adopt your proposal to release over \$2.5 billion from the Crime Victims Fund for fiscal year 2016. This is more than three-fold the \$745 million released in fiscal 2014. Your Fairness to Crime Victims Act will provide a permanent, stable fix to the problem of Congress withholding funds. It will require that each year, Congress release from the Fund the average amount collected over the past three years

Your bill will make a concrete difference to the people of Pennsylvania. Under the Fairness for Crime Victims Act, Child Advocacy Centers, rape crisis centers, domestic violence shelters, and

other victim service groups in Pennsylvania will see funds more than quadruple—going from \$17 million in fiscal year 2014 to an estimated \$70 million in fiscal year 2016.

The release of additional funds from the Crime Victims Fund would provide invaluable, additional support to ensure that the medical, mental health, family counseling, and support services needed for the Delaware County Child Advocacy Center can operate effectively and expand and provide more services. It has been shown that CACs have resulted in more pleas for the prosecution and longer sentences for the perpetrators. Children and Youth Services, municipal, state and law enforcement and county prosecutors continually recognize the need for enhanced medical, mental health, and child and family advocate services for our most vulnerable victims of crime. Newly released funds from the Crime Victims Fund would allow for police trainings and hiring of additional forensically trained child interviewers and the permanent addition of trained family and child advocates at the Delaware County Child Advocacy Center.

Victims of domestic violence are in Delaware County Protection from Abuse (PFA) court on a weekly basis, with emergency PFAs seen daily in the court. From January to June 2015, alone, 863 PFA petitions have been filed in Delaware County. Delaware County Women Against Rape (WAR) and Crime Victim Services, and the Domestic Abuse Project effectively and efficiently provide a high level of services to victims of sexual assault and to victims of other serious crimes. This is reflected in the statistics included in the Delaware County Women Against Rape 2013-2014 yearly report. Nearly 2,000 victims and significant others were served through criminal justice court accompaniments, and Crime Victim Compensation Claims. Additionally, nearly 1,300 victims of other serious crimes were served by WAR in the same manner. Since 2001, the VOCA funded staff at the agency has assisted victims in receiving nearly \$2 million in awards from the crime victim compensation fund. Also, in the fiscal year 2013-2014, the agency presented 1,292 educational programs reaching 35,367 residents of Delaware County, the majority of whom were school children.

Additional Crime Victim funding would allow Delaware County Women Against Rape (WAR) to provide even more educational and prevention programs, and more comprehensive counseling and accompaniment services.

The potential increase of Crime Victim Funds would assist Delaware County in developing a Domestic Violence Specialty Court with intensive counseling, supervision and follow-up and result in a reduction in re-victimization.

Additional funds from the Crime Victims Fund will allow the Office of the District Attorney and the Domestic Abuse Project to accomplish the goals to expand training to all police officers in Delaware County by providing funding for programs and overhead costs for training such as building rental fees and materials, and funding for victim services. We believe that the lethality assessment program will keep victims of domestic violence safe by encouraging more victims to use the support services available and seek help before it is too late.

Additional Crime Victim funds to victims would allow Family Support and the Delaware County Child Advocacy Center to benefit in many different ways. This will allow the CAC to increase the number of children and families receiving specialized treatment services, support the advancement of skills for professionals in Evidence Based Treatments as recommended by the National Children's Alliance, and provide Family Advocate Services for parents whose children are being interviewed through the Children's Advocacy Center. Additional Crime Victim funds are critical in supporting the space and infrastructure which makes the Multi-Disciplinary Interview Team coordination, specialized interview and recording possible. If allowed, with a legislative language change, the CAC will be able to use Crime Victim funds for Forensic Interview services. Also, increasing funds is essential since we do not have a funding stream for law enforcement only cases, which is one third of the interviews handled by the CAC.

In conclusion, the release of additional Crime Victim Funds would further serve and protect the most vulnerable and neediest members of our community. Again, I would like to thank Chairman Enzi, Ranking Members Sanders, and you, Senator Toomey, for organizing this hearing and for allowing me to provide this testimony.

Senator TOOMEY. Thank you, D.A. Whelan. Thank you very much for your testimony. Your written testimony, I appreciate, as well, as I read that last night. That will be submitted for the record and I appreciate it.

Next, Ms. Newman, thank you for joining us. Your written testimony also will be submitted to the record, but I invite you now to give us your oral testimony.

**STATEMENT OF ABBIE NEWMAN, R.N., EXECUTIVE DIRECTOR
AND CHIEF EXECUTIVE OFFICER, MISSION KIDS CHILD AD-
VOCACY CENTER OF MONTGOMERY COUNTY, PENNSYL-
VANIA**

Ms. NEWMAN. Good morning, Senator Toomey, and thank you. I do not think that my voice carries quite as far as Mr. Whelan's, so I am going to have to move closer to the mic over here. Thank you for the opportunity to testify here today on how we can continue working to help heal and obtain justice for Pennsylvania children who have been victims of sexual predators. You are a great leader on the issue of preventing child abuse and helping survivors of child abuse have access to all of the services they need to heal.

My Child Advocacy Center, Mission Kids, is an accredited member of the National Children's Alliance. We proudly support your Protecting Students from Sexual and Violent Predators Act, which seeks to help keep child predators out of our nation's schools. The bill also bans "passing the trash," that terrible practice where a school can knowingly help a predator get a job someplace else so they become another district or state's problem.

We also appreciate your cosponsorship of the Justice for Victims of Trafficking Act, which President Obama just signed into law. This law gives law enforcement additional tools to find traffickers and increases fines and penalties and reserves the money to fund services for trafficking victims, and we very much appreciate that the first \$2 million collected will go to Child Advocacy Centers to help fight this, as well.

And, we are very excited to work with you on the Fairness for Crime Victims Fund Act. I would like to speak for a moment on how the Crime Victims Fund could help Child Advocacy Centers, which in shorthand are known as CACs, across Pennsylvania and the country by explaining the purpose of CACs and the difference that CACs make.

CACs are designed to help victims of child abuse through every step of the justice system and to obtain medical and emotional care. The need for CACs is best explained by one adult survivor of child sexual abuse. This person saw an ad that we created and the ad simply said, "Imagine living the worst day of your life over and over and over." When this person saw the ad, he came to me and he said, "I saw that and what clicked in my mind is that it was actually two worst days, the day of the abuse followed by the day of the investigation."

Child sexual abuse is a crime of secrecy. Child abusers groom their victims and take months or years to make the child that increasing touch is acceptable behavior. By the time the abuse takes place, the child may feel that they are to blame, and since 50 percent of the time the abuser is a family member, and over 90 per-

cent of the time it is someone in a close relationship to the family, who is going to believe if they tell anyway?

The mission of the CAC is to achieve healing and justice for victims of child abuse. At a CAC, police, prosecutors, social workers, medical and mental health professionals, and child advocates work as a team to help that child at every step, from investigation through prosecution to receipt of specialized medical help and mental health counseling. The goal is to limit additional trauma to the child and ensure that the child receives specialized needed services as quickly as possible.

In communities without a CAC, if a child is brave enough to report abuse, they are often required to retell and, thus, relive the abuse through multiple repetitive interviews with social workers, prosecutors, police, victims' services, medical, mental health counselors, and they do it in places like an emergency room or a police station. Think about it. When you are a kid, you go to the police station because you are a criminal or you are bad.

The child does not understand that somebody there is trying to help them, and often, because the adults are not properly trained, they use techniques which are very much more like interrogations than something designed to actually get the child's story from the child. And, too often, the child is not receiving the needed medical attention and mental health counseling, and the result is that the very professionals that are trying to help this child end up re-traumatizing them over and over again.

There is another danger to this typical approach of multiple interviews, and I am sure that Mr. Whelan and every other prosecutor who has prosecuted a child abuse case has found it, which is that when you have slightly differing testimonies and slightly different statements, which happens whenever different people hear it—we all hear things differently—then you have different statements that a defense attorney can pick apart later on in a courtroom.

If the case reaches trial, the child often does not have the strength to tell their story again, this time in a courtroom not dissimilar to where we are sitting, with a judge in a big black robe, 12 strangers, and the abuser staring at them, and then undergoing cross-examination by the defense attorney. The prosecution will often fall apart and the child and family are left in a much worse situation than before the abuse was even reported.

CACs make the child the focal point. All of the professionals come to the child, as opposed to making the child travel to the separate agencies. The child's experience starts when they are greeted by a professional, child-friendly staff at a center, which often resembles a pediatrician's office or after-school environment to make them feel comfortable. The child is then interviewed by a highly trained forensic interviewer. Forensic interviewers are responsible for obtaining a statement in a manner that is developmentally appropriate, using open-ended and non-leading questions that will not taint the interview further.

Members of the multi-disciplinary team, made up of police, social workers, and prosecutors, are able to observe the interview live, often on closed circuit TV in the next room, so that they can see the nuances of a live interview. They can see the child's reaction.

They can see facial expressions. And then they get a chance to sit and talk with each other, because one of the best things about a CAC model are watching these professionals share information in that observation room, because prosecutors and police and social workers all come to this process from different backgrounds, and all of a sudden, things and statements that are black and white to them as individuals become gray as they talk to each other. All of the result is a better investigation for all of them and a better outcome for the child.

Victim advocacy services are begun as soon as the child arrives and a relationship of trust begins to build. While the child speaks to the forensic interviewer, the family members meet with a trained advocate. Many families are so overwhelmed by what they are going through that they do not even understand the need at the time for mental health services for themselves and their child, and the advocate will help them to understand that need and set them up with the very specialized services that they need.

Children often react in different ways to child abuse. The reactions can be severe, such as depression or suicide, or they could be very vague—bed wetting, becoming introverted, or promiscuity, a decline in grades, or an over-achiever. Or, they may not even—the symptoms may not manifest themselves until sometime later in life when some life event triggers what happened to them and their experience.

Bluntly put, CACs need more funds. Every child victim desperately needs help, but due to funding shortfalls, that is not always possible. The prevalence of child abuse is staggering. At Mission Kids alone, which serves only Montgomery County, Pennsylvania, we have done over 2,300 forensic interviews in five years. Between ten to 20 percent of all children will be victims of child sexual abuse before the age of 18. In Pennsylvania, 23 counties have a CAC, but 44 do not, often due to inability to fund a CAC. Nationwide, 1,000 counties have no access to CACs. Some counties are attempting to begin a center like Mission Kids or use services of CACs in nearby counties, and some still have no CAC services at all.

Many of the nation's CACs have one or two victim advocates for 900 children. It is not uncommon to hear in Pennsylvania, as you noted, that there may be a wait time of three to six weeks for mental health services or two to four weeks for non-emergency forensic interviews.

Your Crime Victims Fund bill will make a huge difference to the abused children of Pennsylvania and across the country. Thank you for your help and caring about the most vulnerable victims in our society.

[The prepared statement of Ms. Newman follows:]



Testimony of Abbie Newman, R.N., J.D.

**Hearing before the
U.S. Senate Committee on the Budget**

Good Morning, Senator Toomey.

My name is Abbie Newman. My career started as a Registered Nurse practicing pediatrics before attending law school. I worked for almost 20 years as a successful medical malpractice defense litigator in Philadelphia before becoming the founding Executive Director of Mission Kids Child Advocacy Center (CAC) of Montgomery County in 2008, and I have served as the group's Executive Director and CEO to this day. Through Mission Kids, I have overseen the growth of the collaborative Multidisciplinary Team from a group that assembled on a sporadic basis to review cases that involved allegations of child abuse to a nationally accredited CAC. I currently serve on the newly established CAC Advisory Committee in PA, charged with awarding state funds to both established and developing CACs, and am a member of the Board of Directors of the PA Children's Trust Fund. I also served as President of the Pennsylvania Chapter of Child Advocacy Centers from 2012 to 2014, when I was elected as the first Chair of the External Affairs Committee of the State Chapter, in which position I continue today.

I want to thank Chairman Enzi, Ranking Member Sanders, and you Senator Toomey for the opportunity to testify here today on how we can continue working to help to heal and obtain justice for Pennsylvania children who have been victims of sexual predators. I say continue, because you have already shown great leadership on the issue of preventing child abuse and helping survivors of child abuse have access to all of the services they need to heal.

My CAC, Mission Kids, is an accredited member of the National Children's Alliance, which represents 777 child advocacy centers nationwide. We proudly support your Protecting Students from Sexual and Violent Predators Act, which seeks to keep child predators out of our nation's schools. Under your bill, schools that receive federal funds must conduct criminal background checks for teachers and other school employees. The bill also bans "passing the

trash”—the abhorrent practice of a school knowingly helping a child predator land a teaching job somewhere else, so that predator becomes someone else’s problem.

We also greatly appreciate your co-sponsorship of the Justice for Victims of Trafficking Act, which President Obama recently signed into law. The law gives law enforcement additional tools to find traffickers. It also increases fines and penalties on traffickers and reserves that money to fund services for trafficking victims, with the first \$2 million collected going to Child Advocacy Centers.

And we are very excited about your Fairness for Crime Victims Act, which will dramatically increase the amount of money disbursed from the Crime Victims Fund. Child Advocacy Centers are in desperate need of increased funding to be able to provide specialized services to these most vulnerable victims in a timely fashion.

The Story of Mission Kids

The creation of Mission Kids in Montgomery County was inspired by the story of a boy named Sasha.

Over 25 years ago, as a young boy, Sasha lived with 2 loving parents and his younger sister on the Main Line, not far from where we are right now. His parents did not understand how he went from a playful, outgoing child to a 7 year-old boy who put underwear over his head while holding a knife to his own throat, and trying to jump out of a moving car to kill himself. What his parents did not know was that Sasha was being brutally and repeatedly raped by his uncles, his father’s brothers, one of whom was a well-known Jewish cantor from New York. Sasha was finally able to find the words to tell his story to a therapist when he saw that his uncles were also abusing his 4 year-old sister. What became known after Sasha’s brave disclosure was that his father had been sexually abused by the same uncles when they were children. That is the nature of the crime of child abuse: it is a secretive crime; the abuser is someone close to the family, manipulative, and at times multi-generational.

To make matters even worse, the case took 10 years to traverse the justice system, forcing Sasha to relive his abuse each time he needed to tell his story. As a 17 year-old he agreed with a plea bargain just to make the cases end, so he could move on with his life.

District Attorney Risa Vetri Ferman, and Laurie O’Connor, the Director of Montgomery County Office of Children and Youth, had seen scenarios like Sasha’s for years, over and over again. Together, with all of the police departments in Montgomery County, they decided it was time to have a Child Advocacy Center to change the stories for the lives of these most vulnerable victims. As Sasha’s mother told the DA: “What happened to my children was awful. But your system is even worse.”

The CAC Difference

Child sexual abuse is a crime of secrecy. Child abusers ‘groom’ their victims, taking months, or years, to make the child feel that increasing levels of touch are acceptable. By the time the actual abuse takes place, the child may feel that they are somehow to blame, and who will believe them if they find the courage to tell? Child abuse is very scary to a child, in more ways than the obvious horror of the abuse itself.

Without a CAC, if a child is brave enough to report abuse they are often required to retell-and thus relive—the abuse through multiple, repetitive interviews with Child Protective Services, the prosecution, police, victim services, and medical and mental health providers. The interviews often occur in locations that only magnify the trauma--such as police stations or Emergency Rooms. The questioners do not have the proper training, and inadvertently use an interrogation style instead of one that is an age appropriate and employs non-leading questions. And, too often, the child is not receiving the needed medical attention and mental health counseling along the way. The result is that the very professionals who are trying to help the child end up subjecting the child to additional trauma.

One adult survivor of child sexual abuse explained it well. This person saw an ad that we created which said: “Imagine living the worst day of your life over and over and over...” The person said that what clicked in his mind was that it was actually 2 of the worst days of his life: The day of the abuse, followed by the day of the investigation.

There is another danger to the typical approach of multiple interrogations: Multiple interviews can also plague a prosecution with slightly differing statements to be picked apart by a defense attorney. If a case reaches trial, the child often does not have the strength to tell their story again, this time in a courtroom, with a judge, 12 strangers, and the abuser present. The prosecution often falls apart, and the child and family left in a worse situation than before the disclosure.

Compare the difference for communities with a CAC like Mission Kids. The mission of a CAC is to achieve healing and justice for victims of child abuse. At a CAC, police, prosecutors, medical professionals, mental health counselors, and child advocates work together as a team to help a child at every step—from investigation through prosecution of the case, to receipt of specialized medical help and mental health counseling. The goal is to limit additional trauma to the child and ensure that the child receives needed services as quickly as possible.

At Mission Kids, and all nationally accredited Child Advocacy Centers, we make the child the focal point. All of the professionals come to the child, as opposed to making the child travel to numerous agencies separately. The child’s experience starts when they are greeted by child friendly and professional staff at the Center, which often resembles a pediatrician’s office or

after school environment. The child meets with and is then interviewed by a trained Forensic Interviewer. Forensic Interviewers are highly trained and responsible for obtaining a statement in a manner that is developmentally appropriate, using open-ended and non-leading questions that will not taint the interview. Members of the Multi-Disciplinary Team (MDT), comprised of police, social workers and prosecutors, are able to observe the interview live on closed circuit TV so they get the benefits of observing the nuances and body language of a live interview while the child is spared the trauma of multiple interviews. And, in most CACs the interviews are recorded on DVD so there is no question later on as to exactly what was asked and how the question was answered.

Family Advocacy Services are begun as soon as the family arrives and a relationship of trust begins to build. While the child speaks to the Forensic Interviewer, the non-offending family members meet with the trained Family Advocate. This Advocate has been trained in the particular dynamics of child abuse, and how those dynamics affect the family. The Advocate initially makes sure that all of the families basic needs are being met, and if not, makes sure that the family is connected with the appropriated needed services. However, child sexual abuse, like in Sasha's case, knows no economic boundaries, and crosses all religions, ethnicities and zip codes. Advocacy services may need to be provided in Spanish, Korean, Chinese, or other languages, depending on the community being served.

And, many families are so overwhelmed that they can't process the need to follow up on mental health treatment for their children. Children react in different ways, and the effects of the abuse may not come out until a later time, or may not be exhibited in a way that the family understands is related to the abuse. The symptoms could be awful but not immediately relatable to the trauma, like with Sasha. Or, symptoms can be vague, like bed-wetting; or becoming more introverted, or promiscuity; a decline in grades or a need to become an over achiever. Or, symptoms may not manifest outwardly until a later life event, years after the abuse.

Without help, 30% of abused and neglected children will go on to abuse children as adults. Without the necessary intervention and support, victims of child abuse can go on to struggle with delinquency, school failure, obesity, drug and alcohol abuse, homelessness, thoughts of suicide and difficulty forming and sustaining relationships. The Center of Disease Control estimates the average lifetime cost of child abuse is \$210,012 per victim. The negative repercussions for our society cannot be ignored.

Families also need specialized counseling. The parent is often traumatized by what their child has been through and the closeness of the offender to the family. Child abusers are not strangers; over 90% of the time the abuser is someone in a close relationship to the child and family, like teachers or coaches or clergy. More than 50% of the time the abuser is a family

member. Parents may feel guilt, or not be ready to admit that the abuse actually happened, for instance if the abuser is an older child or spouse, or a parent's parent. If the parent doesn't heal they can't help their child to heal, and so the Advocate will educate the parents on the need to follow up with the therapeutic services, set up the initial appointment, and help to arrange transportation. And, of course, Advocates help the parents to fill out the forms that are necessary for reimbursement for Mental Health services.

The Advocates make sure that specialized medical referrals are made, and again, educate the parents on why those exams are so important even in non-emergent situations. The Advocates follow up with families over the life of a case if prosecution is begun, help them to navigate the legal process, and act as a liaison with other agencies to make sure that the channels of communication remain open for the benefit of all professional investigations and for the family and child. And, they provide court accompaniment and to medical exams if required.

A Record Of Success

Mission Kids has been operational for 5 years, and conducted over 2,300 forensic interviews in Montgomery County alone. Nationally, CACs provide victim services to more than 279,000 children/year. A cost-benefit analysis showed that traditional investigations cost 36% more than CAC-collaborative investigations. And, one study showed that felony prosecutions of child sexual abuse are double in a district that has a CAC vs. one that does not. Research shows that child abuse investigations handled through a CAC have a shorter length of time to disposition, better prosecution outcomes, higher rates of caregiver and child satisfaction, more referrals to mental health services, and better access to medical care. Also, anecdotally, use of this model results in more plea agreements.

More Needs To Be Done

Unfortunately, child abuse is all too common. Between 1/5 and 1/10 children will be victims of child sexual abuse before the age of 18. In 2013, ChildLine, Pennsylvania's child abuse hotline, registered 26,944 reports of suspected abuse or neglect. Pennsylvania received more reports of suspected child and student abuse in 2013 than any other year on record. 9,273, or 34%, of these reports, were sent to law enforcement for investigation. And these are just the cases we know about.

Every child abuse victim desperately needs help. But, due to funding shortfalls, that is not always possible.

In Pennsylvania, 23 counties have a CAC, and 44 do not, often due to inability to fund a CAC. Nationwide, 1,000 counties have no access to CACs. Some counties are attempting to begin a

Center like Mission Kids or use services of CACs in nearby counties, and some still have no CAC services at all.

Due to a lack of funds, even established CACs often have waiting times for services. It is often difficult even in urban locations to find enough Specialized Mental Health therapists and medical service providers. Many of the nation's CACs have one or two victims' advocates for 900 kids. It is not uncommon to hear that centers in Pennsylvania may have a wait time of 3-6 weeks for mental health services, and 2-4 weeks for non-emergency forensic interviews. The good and the bad news about the newly enacted Child Protections Services Laws in PA is that more cases of suspected abuse are being reported, which in turn puts more of a strain on the needed services of CACs. More money could be used to hire and train Forensic Interviewers and pay for the backbone of any CAC, the forensic interview. Money would be put towards additional Family/Victim Advocates to serve the increased number of children and their families in need of CAC services, and Case Coordinators to schedule the collaborative interviews of the increased reports received. More specialized mental health services and support, so crucial to healing of both victims and families, could be provided. Also, as the majority of CACs are non-profit agencies, more existing resources could be put towards programs such as outreach and prevention and support groups for survivors and families.

Fairness for Crime Victims Act

I want to thank you for your work to increase the amount of money released from the Crime Victims Fund **to benefit all victims, including victims of child abuse.**

The Crime Victims Fund receives no taxpayer dollars; instead, it is funded by fines and penalties on criminals convicted in federal court.

This year, thanks to your leadership, the Budget Resolution required Congress to release an estimated \$2.5 billion. This is over three-and-a-half times as much as the \$745 million that was released in fiscal 2014. And it will make a dramatic funding difference for Pennsylvania, which will see funds for CACs and other victim service groups more than quadruple—going from \$17 million in fiscal year 2014 to an estimated \$70 million in fiscal year 2015.

Your Fairness to Crime Victims Act, which I am proud to support, will make the increased funding stream permanent, by requiring the Crime Victims Fund to release, each year, the average of the past three years' intake.

Senator Toomey, thank you for your efforts on behalf of crime victims, and I look forward to continuing to work with you on these efforts.

Senator TOOMEY. Ms. Newman, thank you very much for your testimony.

Next, we will hear from Ms. Moyer. Again, your written testimony will be included in the record and I welcome your oral testimony.

**STATEMENT OF DIANE MOYER, LEGAL DIRECTOR,
PENNSYLVANIA COALITION AGAINST RAPE**

Ms. MOYER. Thank you, Senator, and thank you for being a champion on not just VOCA, but so many other issues that other elected officials find it either too difficult to deal with or they are interested in other things. But, you have been a champion for those who cannot speak for themselves and I appreciate that and will never forget your devotion to this issue.

I am Diane Moyer and I want to thank Chairman Enzi, Ranking Member Sanders, and you, Senator Toomey, for the opportunity to testify here today. The Senator talked about what sounds like a lot of work, and was, but after 18 years, if I did not have a lot of marvelous things to say about having helped victims, then I would not be doing my job.

I want to thank you, Senator Toomey, for your unwavering commitment to victims of sexual assault, and I do want to read this into the record.

The Pennsylvania Coalition Against Rape is proud to support the Protecting Students from Sexual and Violent Predators Act, the bipartisan bill introduced by you and Senator Joe Manchin of West Virginia. The bill works to stop sexual predators from infiltrating our children's classrooms by requiring schools that receive federal funds to conduct background checks on employees. When you say that sentence out loud, it just seems so absurd that we do not do that already, when we trust our children with these teachers every single day. The bill also forbids a school from allowing a child molester to resign quietly and then find a new teaching job elsewhere, and that has happened nationwide.

We thank you for cosponsoring the Justice for Victims of Trafficking Act. It is another issue that people are reluctant to talk about that happens all the time. And, I would like to acknowledge Villanova's own Shea Rhodes, who is here, for her work on trafficking, which is groundbreaking and necessary. The President recently signed that into law. Human trafficking is a modern form of slavery. Vulnerable people, often women and children, but also men and boys, are forced into prostitution, often raped hundreds or thousands of times. We appreciate your leadership in ensuring that traffickers are punished and that additional funds are available for victims of trafficking.

We are also happy to have the opportunity these past months to work with you in drafting the Fairness for Crime Victims Act, which will ensure a steady increased funding stream—sensible—from the Crime Victims Fund. While some of our elected officials voice support for victims of sexual assault, you have acted. While others join the occasional bill and then forget when they face any opposition, you have been unrelenting in fighting for victims of sexual assault, continuing to fight on both the Protecting Students Act

and restoring fairness to the Crime Victims Fund, despite unbelievable opposition and obstacles.

I would like to talk about some of the unmet needs of PCAR and its member programs, and I would also like to acknowledge the presence of some of the directors of our premier programs, Barbara Clark and her policy person, Julie Dugery, who does policy work in addition to being one of the best advocates in the state. Mary Onama and Barbara Clark, these women have dedicated their lives to victims of sexual assault, and I wanted to give them recognition. Thank you for indulging me in that.

PCAR and our network of programs have consistently been good fiscal stewards of funding. However, as the identification of new issues and institutions addressed grows with our knowledge of victimization, the demands on services, education, and community awareness are stretched to the limit. We realize that outreach and messaging to different populations must occur in order to achieve our goal to eliminate sexual violence.

As I have noted earlier, Senator Toomey has been a champion for victims of trafficking, who have an incredible continuum of needs that far exceeds most victims, including housing, addiction, alternatives to incarceration, trauma informed care, and accompaniment to medical and legal proceedings. We have always provided services to men, but appropriate outreach must ensure that these victims—that they will be treated with the dignity and care that they deserve.

We have worked extensively with military victims, and our CEO, Delilah Rumburg, was a civilian co-chair of the Defense Task Force on Sexual Assault in the Military Services, and it is incredible what the military has been able to do in addressing the issue of sexual assault and as a leader for the rest of the nation. Ms. Rumburg was also on the Task Force on Child Protection in Pennsylvania as well as a member of the White House Advisory Council on Violence Against Women.

Our leader has provided cutting-edge knowledge of sexual assault to these issues and has brought to the Commonwealth an urgency to treat the spectrum of victimization to programs in Pennsylvania and across the nation. Our programs have indicated just a few issues, the need for SANE Nurse programming, prevention education needed to reach boys and men—we know that it is different than the outreach that we have been doing for decades to women and girls and it is so important that every victim have access to services—collaboration with CACs and multi-disciplinary teams, counseling services under PREA, cyber crimes, prevention education at universities, storage, analysis, and victim notification about the testing of rape kits, transportation costs in our rural programs—people do not realize just how rural Pennsylvania is, that it is just not Pittsburgh and Philadelphia, we have quite a few counties in between—and the hiring and retention of qualified advocates.

We know that you do not get rich doing this work, and you have to do it with a certain amount of heart and passion, but we believe that some of this Crime Victims Fund money should go to establish and maintain qualified staff and prevent turnover, because we need consistency in the treatment of these victims. And, we hope we

can—I know you are not supposed to ask for money for salaries, but these people commit their lives to working with traumatized people every day, and I know they do at the CACs, as well. And, I know even though the District Attorneys may not admit it all the time, it is pretty intense for them, too.

Finally, we have learned from providing services to victims that victims' compensation must be allowed to cover HIV medication to prevent this deadly disease. This medication is costly and usually not something that victims have the ability to pay for up front. Also, victims are often charged later for ambulance services that they did not call for, and imagine the trauma when the bills arrive for that service weeks after the assault. I urge the coverage of these costly but critical services for victims who through no fault of their own face financial retraumatization.

We applaud the leadership of our Senator, Pennsylvania's Senator, in funding for crime victims and those brave advocates who provide services in our Commonwealth and across the country. I urge Congress to join Senator Toomey and his really marvelous staff in the swift and certain passage of this legislation.

Thank you, sir.

[The prepared statement of Ms. Moyer follows:]



**Testimony of Diane Moyer, Esq.
Legal Director, Pennsylvania Coalition Against Rape**

**Hearing before the
U.S. Senate Committee on the Budget**

Good Morning, Senator Toomey.

My name is Diane Moyer. I am Legal Director of the Pennsylvania Coalition Against Rape (or "PCAR"). I want to thank Chairman Enzi, Ranking Member Sanders, and you, Senator Toomey, for the opportunity to testify here today.

For the past 18 years I have been the Legal Director of PCAR, the oldest anti-sexual violence coalition in the nation. As part of our mission, we advocate for the rights and needs of victims of sexual assault. I have worked at the state and national level to achieve justice for victims and resources for the advocates who provide services. I have received awards for my service from the National Crime Victim Law Institute, the Victim Rights Law Center, and the YWCA Violence Intervention Program. I have contributed to a collective of advocates working on the Violence Against Women Act since 1998, focusing on provisions regarding sexual assault. I am a board member of the National Crime Victims Law Institute and the National Alliance to End Sexual Violence. I am a member of the Pennsylvania and American Bar Associations and former member of the ABA Commission on Domestic and Sexual Violence. I have been published in the Encyclopedia of Sexual Violence and publications from the Weekly Reader to the Washington Post.

At the state level, I have worked on legislation to mandate prevention education for incoming students at institutions of higher education, HIV testing of sex offenders, the right for adult victims of child sexual abuse to remain anonymous, an extension of the civil statute of limitations for child sexual abuse, a bail provision that allows for denial of bail to violent predators, Megan's law, sexting legislation for minors, a protection order for victims of sexual assault, modifying the wiretap law to allow for pre-text calls for

crime victims, trafficking legislation, a provision to allow expert testimony in sexual assault cases, a revision of the child protection laws, ensuring the right of victims to testify at parole board hearings, revenge porn legislation and annual efforts to ensure funding for advocates to provide services to victims in every county in the Commonwealth.

I want to thank you, Senator Toomey, for your unwavering commitment to victims of sexual assault.

Pennsylvania Coalition Against Rape is proud to support the Protecting Students from Sexual and Violent Predators Act, the bipartisan bill introduced by you and Senator Joe Manchin of West Virginia. The bill works to stop sexual predators from infiltrating our children's classrooms by requiring schools that receive federal funds to conduct background checks on employees. The bill also forbids a school from allowing a child molester to resign quietly and then find a new teaching job elsewhere.

We thank you for co-sponsoring the Justice for Victims of Trafficking Act, which the President recently signed into law. Human trafficking is a modern form of slavery. Vulnerable people—often women and children—are forced into prostitution, often raped hundreds or thousands of times. We appreciate your leadership in ensuring that traffickers are punished and that additional funds are available for victims of trafficking.

We are also happy to have had the opportunity, these past months, to work with you in drafting the Fairness for Crime Victims Act, which will ensure a steady, increased funding stream from the Crime Victims Fund.

While some of our elected officials voice support for victims of sexual assault, you have acted. While others join the occasional bill and then forget it when they face any opposition, you have been unrelenting in fighting for victims of sexual assault—continuing to fight on both the Protecting Students Act and restoring fairness to the Crime Victims Fund, despite opposition and obstacles.

PA Coalition Against Rape

PCAR

The mission of the Pennsylvania Coalition Against Rape is to work to eliminate all forms of sexual violence and to advocate for the rights and needs of victims of sexual assault.

Each year Pennsylvania rape crisis centers provide confidential services, at no charge, to approximately 30,000 men, women and children affected by sexual assault.

Founded in 1975, PCAR works to end sexual violence and advocates for the rights and needs of sexual assault victims. PCAR partners with a network of rape crisis programs

to bring help, hope and healing around issues of sexual violence to the Commonwealth of Pennsylvania. PCAR:

- Assures that communities have access to quality victim services and prevention education by providing funding, training, materials and assistance to a network of rape crisis centers that serve all of Pennsylvania's 67 counties.
- Provides resources and training on sexual assault-related issues to professionals across the Commonwealth.
- Promotes public policies that provide protections and services to victims of sexual violence, hold offenders accountable, and enhances community safety, and works with media to increase public awareness, access to accurate information and ethical reporting practices.
- Operates the National Sexual Violence Resource Center (NSVRC), which identifies, develops and disseminates resources regarding all aspects of sexual violence prevention and intervention.
- Operates AEquitas: The Prosecutor's Resource on Violence Against Women to provide expertise and training to prosecutors, law enforcement and criminal justice professionals across the United States and internationally.
- Our programs are funded to provide the following services:

Services to be provided by the local centers may include, but are not limited to, the following:

1. the provision of direct services to victims of sexual violence and those collaterally affected by their victimization, with the exception of the offender;
2. crisis and counseling services;
3. medical and legal accompaniment/advocacy;
4. training and technical assistance in the community; and
5. education/awareness and primary prevention activities.

Unmet Needs

PCAR and our network of programs have consistently been good fiscal stewards of funding. However, as the identification of new issues and institutions addresses grows with our knowledge of victimization, the demands on services, education and community awareness are stretched to the limit. We realize that outreach and messaging to different populations must occur in order to achieve our goal to eliminate sexual violence. As I have noted earlier, Senator Toomey has been a champion for victims of trafficking who have a continuum of needs that far exceeds most victims, including housing, addiction, alternatives to incarceration, trauma informed care and accompaniment to medical and legal proceedings. We have always provided services

to men, but appropriate outreach must assure these victims that they will be treated with the dignity and care that they deserve. We have worked extensively with military victims and our CEO, Delilah Rumburg was a civilian co-chair of the Defense Task Force on Sexual Assault in the Military Services. Ms. Rumburg was also on the Task Force on Child Protection in Pennsylvania as well as a member of the White House Advisory Council on Violence Against Women.

Our leader has provided cutting edge knowledge of sexual assault to these issues and has brought to the Commonwealth an urgency to treat this spectrum of victimization to programs in Pennsylvania and across the nation.

Our programs have indicated that funding is needed for the following:

- SANE nurse programming
- Prevention education tailored to reach boys and men
- Collaboration with Multi-disciplinary teams and CAC's
- Victims with disabilities, mental and physical
- Counseling services under PREA
- Cyber crimes
- Prevention education at State Universities
- Storage, analysis and victim notification of rape kits
- Transportation costs in our rural programs
- Hiring and retention of qualified advocates

I am particularly concerned about staffing issues. No one expects to get rich doing this work. However, everyone deserves a living wage and should be compensated for doing work that is traumatizing and seemingly endless. We require 40 hours of training in order to have confidentiality for counseling and accompanying victims. We have had staff that are eligible for public benefits. In urban settings, we have victim advocates routinely stuck in schools all day due to a lock down because of an incidence of violence. This is rewarding work, but not for the faint of heart.

The most frustrating thing for someone who has done policy work is that there is money available for these unmet needs. President Reagan knew what he was doing to dedicate non-taxpayer money to help victims get the services they richly deserve.

Finally, we have learned from providing services to victims that victims' compensation must be allowed to cover HIV medication to prevent disease. This medication is costly and usually not something that victims have the ability to pay for up front. Also, victims are often charged later for ambulance services that they did not call for and imagine the trauma when the bill arrives for that service weeks after the assault. I urge the coverage of these costly but critical services for victims, who through no fault of their own face financial re-traumatization.

We applaud the leadership of our Senator in funding for crime victims and those brave advocates who provide services in our Commonwealth and across the country. I urge Congress to join Senator Toomey in the swift and certain passage of this legislation.

5

Senator TOOMEY. Thanks very much, Ms. Moyer, for your testimony.

Dr. Dierkers, your written testimony, as well, will be included in the record, and I invite you to share your oral testimony with us.

STATEMENT OF PEG J. DIERKERS, PH.D., EXECUTIVE DIRECTOR, PENNSYLVANIA COALITION AGAINST DOMESTIC VIOLENCE

Ms. DIERKERS. Good morning. I also would like to thank the committee leadership and you for conducting this hearing and for inviting me to represent the interests of our 60 Pennsylvania Domestic Violence Centers and the thousands of victims and children they serve every day.

At this time, I would like to recognize the hard working and dedicated advocates who have joined us here today: Mary Kay Bernosky from Berks County Women in Crisis; Maria Macaluso, Women's Center of Montgomery County; Linda Thomas and Lauren Bucksner from A Woman's Place in Bucks County; Sally Casey, Schuylkill Women in Crisis; Beth Sturman, Laurel House, Montgomery County; Elise Scioscia, Director of Public Policy at Women Against Abuse in Philadelphia; and Kristen Wooley at Turning Point of Lehigh Valley.

PCADV is an alliance of independent, private, nonprofit organizations that provide services and advocacy on behalf of victims of domestic violence and their minor children. The coalition was established in 1976 and is actually the oldest statewide domestic violence coalition in the nation. And since then, we have helped each state in the union establish their own state coalition, and now the six U.S. territories have State Domestic Violence Coalitions, as well.

We have grown over our 40 years of service to a membership of 60 centers that provide services to every single one of the 67 counties in Pennsylvania. Our member organizations are required to provide a range of holistic services, including emergency hotlines, shelters, counseling programs, safe home networks, legal and medical advocacy, and transitional housing, not only for the direct victim of abuse, but also their children. During the last fiscal year, as you said, our centers helped more than 85,000 Pennsylvanians, including over 7,000 children.

Unfortunately, 141 people lost their lives due to domestic violence homicide in 2014, 60 percent by the use of a gun, and we must do more to keep guns out of the hands of abusers.

The Victims of Crime Act funds provide vital resources for both the victim and for the people trying to assist them, as you said, with no additional burden to taxpayers. In Pennsylvania, they are used for a wide range of critical services for victims of domestic violence, including crisis counseling, emergency legal advocacy, shelter and transitional housing, emergency financial assistance, and emergency hotline response.

PCADV strongly urges the Pennsylvania Commission on Crime and Delinquency, who disburses these funds to our various counties to continue funding for these basic services that I just described while also considering emergency issues and unmet needs.

I want to amplify the emerging issues that Diane Moyer has mentioned, the first being the issue of human trafficking, both nationally and at the state level. The General Assembly signed Act 105 into law during this last legislative session, and there is a great need in Pennsylvania for us to create a model of service and to train law enforcement as well as victim service providers to be able to help these minor victims and adult victims of human trafficking, and they have very unique needs that will require many more resources.

Again, as Diane mentioned, we are more and more aware that serving male victims of crime, especially in cases of domestic violence and sexual assault, call for additional resources, both for staffing as well as to outreach men and help them overcome the social stigma and the barriers that they face.

Regarding unmet needs, the Coalition and its 60 centers have been forced to live with less as a result of nearly a decade of flatlined funding by the state, as well as the loss of some federal funds, as well. As a result, we often cannot meet the growing requests for services from our communities. Last year alone, our 60 Domestic Violence Centers reported 6,152 unmet requests for shelter due to the increased demand from increased public awareness about the issue of domestic violence and the inadequate resources to serve these victims.

Every year, our national network participates in a one-day census, the results of which have just been published for 2014, and they are staggering. In one day in Pennsylvania, our network of 60 centers helped 2,498 victims of domestic violence, including 713 children. Of these services provided in that one day, 80 percent of the victims received emergency shelter, 80 percent received legal advocacy. However, in that same day in Pennsylvania, there were 252 unmet requests for services which could not be provided because programs, although they have the expertise, did not have the resources to meet the need.

And, although our advocates do not always know what happens to victims who are turned away, and we do everything we can not to turn them away, our centers report that 60 percent of domestic violence victims for whom there are no services that day return to their abuser. Thirty-two percent become homeless, and eight percent are forced to live in their cars in order to escape the abuse. These numbers provide the realistic answer to the too common and unfortunate question of, "Why doesn't she just leave?"

Releasing additional VOCA funds can do so much to ensure that there will be adequately funded services available to help each time the victim has the courage to seek help.

When there is an unmet need in the community, PCADV recommends that VOCA funds be used first to expand existing capacity before new organizations are developed. It is an efficient strategy that will reduce overhead in communities while investing in agencies with a proven track record of success, many of whom are here with us today.

We also hope that VOCA funds will support services that are broad and holistic, that ensure confidentiality and a sole allegiance to the victim.

We would also hope that VOCA funds can continue to be used to provide services regardless of whether a victim chooses to involve the criminal justice system. For domestic violence victims, this is especially important, as most of the justice they receive actually comes through the civil system and not always through the criminal system. These preferences empower and protect victims while honoring them as experts as to the safest way to support them in a journey to become survivor.

We do recognize, also, the national need for a designated Tribal funding stream, and although Pennsylvania is not home to Tribal nations, many indigenous people live in our Commonwealth. PCADV supports the funding for Tribes in light of our work to overcome oppression for all people.

As I bring my testimony to a close, I would like to talk about one more service, one of the most requested services of domestic violence victims and one that we hope can be expanded with the expanded resources of the Victims Crime Act. Whatever data point we look at, legal services is one of the most requested supports by survivors of domestic violence. The tactics of abuse create safety, economic, and child safety issues that can only be corrected with knowledgeable legal assistance and the help of the courts. And, again, as I said, often, it is the civil court system.

Yet, we only have the resources in Pennsylvania to operate legal services in 15 counties, leaving victims and their children in 52 counties without help. Our 15 civil legal representation sites helped more than 4,000 victims last year at a low cost of \$317 per case. Impact and value like this is rarely seen in the human services system.

One of our Domestic Violence Centers that are here today, Women Against Abuse, was able to provide legal assistance to a survivor named Kendra in a custody case against her child's father. Before Kendra came to Women Against Abuse, she already had a protection-only order against her abuser, Mike, for a long history of abuse. Mike started arguing during a visit with the child and Mike put Kendra in a chokehold and wrestled her to the ground with one arm while holding their three-month-old child. Kendra was eventually able to get up and run into the bedroom to call 911. The police arrived on the scene of assault and arrested Mike.

Kendra was shortly thereafter connected with Women Against Abuse, where an attorney in the civil legal project was able to assist in modifying her protection order to include no contact, and importantly, to file an expedited custody order to also help the child escape abuse, and Kendra was granted immediate primary custody of her baby. Women Against Abuse continues to help Kendra, because custody cases are very long. This is not a legal need that can be performed typically with pro bono services. And, Kendra has remained safe—Kendra and her child have remained safe from her abuser.

So, we, too, urge Congress to pass your Fairness for Victims Act, S. 1495, and to disburse the Crime Victims Fund with the average of the past three years' deposit. With that ample balance that you described in the Crime Victims Fund, now is the time to create a stable and sustainable funding formula and to release that addi-

tional money for the purpose Congress intended and for which it has been collected.

Again, I want to thank you for the championing of many issues, including this one, and your support of victims.

[The prepared statement of Ms. Dierkers follows:]



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WRITTEN TESTIMONY OF PEG J. DIERKERS, EXECUTIVE DIRECTOR

PENNSYLVANIA COALITION AGAINST DOMESTIC VIOLENCE

BEFORE THE
COMMITTEE ON THE BUDGET
UNITED STATES SENATE

JUNE 8, 2015

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NO MORE
TOGETHER WE CAN END DOMESTIC VIOLENCE & SEXUAL ASSAULT

My name is Peg Dierkers, and I am the executive director of the Pennsylvania Coalition Against Domestic Violence (PCADV). In 2008, I became PCADV's second executive director, succeeding founding director, Susan Kelly-Dreiss. I have devoted my career to leading organizations through strategic management of their operations and broadening constituency support in order to identify new ways to create positive change. My background includes successes in directing advocacy, fundraising and major operations for community-based nonprofits, government institutions and national healthcare businesses. I currently serve on the Victim Services Advisory Committee (VSAC) with the purpose of advising the Pennsylvania Commission on Crime and Delinquency (PCCD) on the needs and perspectives of survivors and victims of domestic violence so that they may be considered in the development of services, policies and legislation, and funding priorities.

Before I begin my testimony today, I would like to extend my gratitude to Chairman Enzi, Ranking Member Sanders, and Senator Toomey for conducting this hearing and for inviting me to represent the interests of our 60 Pennsylvania domestic violence centers and the thousands of victims and children they serve every day. I would like to thank Senator Toomey for working so closely with PCADV and other stakeholders on his bill to ensure additional support for victims of domestic violence from the Crime Victims Fund. At this time, I would also like to recognize the hard-working and dedicated advocates who have joined me today in the audience.

PCADV is a private, non-profit organization that provides services and advocacy on behalf of victims of domestic violence and their minor children. PCADV was established in 1976 and is the oldest statewide domestic violence coalition in the nation. In PCADV's nearly 40 years of operation, it has grown to a membership of 60 domestic violence centers that provide services to every county in Pennsylvania. Our member centers provide a range of holistic services, including emergency hotlines, shelters, counseling programs, safe home networks, legal and medical advocacy, and transitional housing for victims of abuse and their children. During the last fiscal year, our centers helped 85,643 Pennsylvanians—including over 7,000 children.

Domestic violence is a serious and widespread public health crisis in the United States. Domestic violence is pervasive in our society; it has no economic, ethnic or social boundaries. The numbers are shocking. One in four women in the United States—approximately 42.4 million—have experienced physical violence,

rape, or stalking by an intimate partner; and one in seven men have experienced the same violence at some point in their lifetime.¹

The free and confidential services PCADV's network provides are powerful and lifesaving. However, every year Pennsylvania families and communities are still shattered by the ultimate cost of domestic violence. In 2014, there were 141 domestic violence fatalities in Pennsylvania. Ninety-seven of those deaths were victims, including four children; and 44 were perpetrators. Each loss of life is a heartbreaking reminder of the need for increased awareness and funding for domestic violence services.

BACKGROUND

The Victims of Crime Act (VOCA) of 1984 established the Crime Victims Fund. The Crime Victims Fund, which is generated by fines paid by federal criminals and receives no taxpayer dollars, offers a vital funding source for victims seeking help to heal from the emotional and physical challenges resulting from crimes committed against them. VOCA funds provide a key thread in a victim's safety net—with no fiscal burden on taxpayers.

In Pennsylvania, VOCA funds may be used for a wide range of critical services, including: crisis counseling, emergency legal advocacy, shelter and transitional housing, emergency financial assistance, and emergency hotline response. In 2014, the need for additional VOCA dollars was dire as PCADV's network of domestic violence centers struggled to appropriately staff their agencies to meet demand for services.

In Pennsylvania, for example, one of our comprehensive domestic violence service providers in Philadelphia, Women Against Abuse, Inc., used VOCA funds to fund two court advocates who are stationed in court to assist victims with legal options counseling, safety planning and referrals, as well as an attorney who is also stationed daily in family court to provide immediate representation in the most complicated protection order cases. At full capacity and with expanded use, this program would include an additional fast-track attorney to represent clients, an advocate in the court filing unit to triage cases, as well as expanded capacity for a custody attorney. Last year, Women Against Abuse turned away 189 eligible

¹ Centers for Disease Control and Prevention, *National Intimate Partner and Sexual Violence Survey: 2010 Summary Report* (2010) available at http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf#page=47

custody cases due to a lack of staff capacity. Women Against Abuse has been operating the program at the lowest possible capacity due to inadequate funding.

In Lancaster County, the Domestic Violence Legal Clinic was able to partially fund a non-attorney legal advocate to assist victims acting pro se in filling out extensive paperwork, filing for Protection From Abuse orders, and even offering emotional support to victims as they navigate a confusing and overburdened legal system. In Lancaster County, legal advocacy staff continue to be stretched to capacity and must work with other agencies to maximize services to victims.

The Crime Victims Fund plays an integral role in assisting victims of domestic violence. I would like to share two client success stories made possible by VOCA funds. Berks Women in Crisis' Civil Legal Representation program successfully assisted a client in obtaining a long-term PFA against the client's abusive ex-boyfriend who was also the father of her young daughter. The client reported that the defendant was stalking her and threatening to kill her, telling her that she "was his forever, and if not, she was going to die." She also reported that when they were living together, he had strangled her on several occasions – almost to the point of unconsciousness. She was very afraid of the defendant. At the first scheduled hearing, the defendant refused to agree to the entry of an order so a second hearing date was set. Less than two hours before the second scheduled hearing time, the defendant posted a message on Facebook disparaging and threatening the client. She contacted her local police department and they sent an officer to meet her at the courthouse for her statement. Under cross-examination at the PFA hearing, the defendant quite proudly and defiantly admitted he was the author of the Facebook message in question. He testified at great length and in great explanatory detail that yes, he wrote the post directed to the client because that was "how he was feeling at the time" and that he was simply exercising his "right to freedom of speech." The court found in favor of the client and entered a final PFA order with a supervised custody provision.

Another story illustrating the way VOCA funds can be used to impact the lives of victims comes from Philadelphia and Women Against Abuse. Women Against Abuse represented "Kendra" in a custody case against her child's father. "Kendra" already had a protection-only order in place against "Mike" for a long history of abuse. "Kendra" and her ex-boyfriend (and the father of her child), "Mike", started arguing during a visit with the child, and "Mike" put her in a chokehold and wrestled her to the ground with one arm—all

while holding their 3-month old child. Once "Mike" got her on the floor, he started to bang her head on the floor, and bit her head. "Kendra" was able to get up and run into the bedroom to call 911. "Mike" ran after her and punched her in the face.

The police arrived on the scene of this assault, and arrested "Mike". "Kendra" was shortly thereafter connected with Women Against Abuse, where an attorney was able to assist in modifying her protection order to include no-contact, and importantly to file an expedited custody order, to grant her immediate primary custody of her baby. Women Against Abuse was able to represent "Kendra" in her ongoing custody case to ensure that she and her child are safe from her abusive partner moving forward. Women Against Abuse was eventually able to take on the full custody case and ultimately secure supervised visitation for the child.

PCADV, and the domestic violence centers we represent, are grateful that, during the 2015 fiscal year, the federal government released an unprecedented and desperately needed \$2.36 billion from the Crime Victims Fund to be used to rebuild the lives of victims. PCADV thanks Senator Toomey for fighting to have this year's budget resolution include a provision that provides an estimated \$2.5 billion in funds to victims of domestic violence, sexual assault, child abuse and other crimes nationwide.

EMERGING ISSUES AND UNMET NEEDS

In Pennsylvania, emerging issues are becoming apparent, and unmet needs continue to demand consideration. Pennsylvania's General Assembly signed Act 105 into law last legislative session, bringing the issue of human trafficking to a new level as advocates and stakeholders seek to build capacity to respond to the needs of victims. There is a great need in Pennsylvania to create a model of service and train law enforcement and victim service providers to help victims of human trafficking as our communities try to understand the complex and unique needs of this population. There also are challenges to providing services to male victims of crime—especially in cases of domestic violence and sexual assault—that call for additional money for staffing as our advocates seek to reach men and overcome the social stigma and barriers faced by male victims.

Last state fiscal year, in Pennsylvania alone, our 60 domestic violence centers reported 6,152 unmet requests for shelter due to increased public awareness to the issue of domestic violence and inadequate resources to serve these individuals. Although our advocates do not always know what happens to victims

who are turned away, our centers report that 60 percent of them are forced to return to their abuser; 32 percent become homeless; and 8 percent are forced to live in their cars.² These numbers provide the realistic answer to the too-common question, "Why doesn't she just leave?" Releasing additional VOCA funds can do so much to ensure there will be an adequately funded service provider available to help every time a victim of crime has the courage to seek help.

Every year, domestic violence programs in the United States participate in a one-day National Census of Domestic Violence Services and the results are staggering. Across our nation, there were 67,646 victims served in one day. Hotline workers answered 20,845 calls—offering a lifeline for victims in danger. This is an average of 15 hotline calls answered every minute. Importantly, that same day nationwide there were 10,871 unmet requests for services and 56 percent of those unmet requests were for safe housing.³

In one day in Pennsylvania, our network of 60 centers helped 2,498 victims; this number included 713 children. Of the services provided in that one day, 80 percent of the victims were provided with emergency shelter and 80 percent were provided with legal advocacy. Local and state hotlines answered 744 calls, an average of 31 calls per hour. However, in that same day in Pennsylvania, there were 252 unmet requests for services, which could not be provided because programs did not have the necessary resources. Of the unmet requests, 184 were for housing. Safe and affordable housing is crucial for victims of domestic violence and their children to escape abusers and live a life free from violence. The top reason reported for our centers being unable to provide these services was due to reduced government funding.⁴ I have attached the summary for the national census and summary for Pennsylvania's census to my testimony.

When there is an unmet need in a community, expansion of existing agencies should be considered before any decision is made about starting a new agency. This is an efficient strategy that will reduce overhead in communities while investing in agencies with a proven track record of success. VOCA funding awards

² National Network to End Domestic Violence, *Domestic Violence Counts: Pennsylvania Summary* (2013) available at http://nnedv.org/downloads/Census/DVCounts2013/State_Summaries/DVCounts13_StateSummary_PA.pdf

³ National Network to End Domestic Violence, *2014 Domestic Violence Counts: National Summary* (2014) available at http://nnedv.org/downloads/Census/DVCounts2014/DVCounts14_NatlSummary_Color.pdf

⁴ National Network to End Domestic Violence, *2014 Domestic Violence Counts: Pennsylvania Summary* (2014) available at <http://nnedv.org/downloads/Census/DVCounts2014/PA.pdf>

should also support the service providing the broadest possible scope for victims. This is especially relevant in cases where only certain agencies can ensure confidentiality and sole allegiance to a victim. Furthermore, it is desirable that an agency be able to provide services regardless of whether a victim chooses to involve the criminal justice system. These preferences empower and protect victims, while honoring them as experts on the safest way to support them in their journey to becoming a survivor.

PCADV recognizes the national need for a designated tribal funding stream to help ensure access to services for all victims living in fear. Establishing tribal funding in VOCA would follow suit with funds already allocated in the Violence Against Women Act and Family Violence Prevention and Services Act. Although Pennsylvania is not home to tribal nations, PCADV supports funding for tribes in light of our work to overcome oppression for all people.

PLANNING FOR FUNDS IN PENNSYLVANIA

PCCD administers these funds to county VOCA funding committees that make awards to local domestic violence centers, rape crisis centers, child advocacy centers and other agencies that serve victims of crime. With 67 counties in the commonwealth experiencing a spectrum of service availability, a county-focused service system permits consistent standards to be met while still incorporating flexibility tailored to the needs of each community.

Pennsylvania must be able to sustain core services in all parts of the commonwealth. VSAC has been working diligently to ensure that VOCA funds allocated to Pennsylvania will be used effectively and efficiently. Strategies that support an efficient and effective delivery system include resource sharing, such as shared staff, technology, and administrative functions. Some core service providers struggle to keep their doors open as they weave together more than 30 federal, state and local funding streams and supplemented staff with 265,526 volunteer hours to serve more than 85,000 victims annually.

PCADV supports efforts to reduce barriers created by tying dollars to arbitrary requirements. For example, the current 20 percent match requirement for VOCA award recipients is not in statute, but is imposed by the Office for Victims of Crime as an administrative rule. Maintaining this 20 percent match requirement could have a crippling impact on an organization's ability to utilize the influx of VOCA dollars coming to their state. Although Pennsylvania recipients have the benefit of PCCD's automatically matching VOCA funds with state domestic violence and rape crisis dollars, this is not a benefit enjoyed by sister coalitions across the

nation. Ultimately, this administrative standard could prohibit otherwise eligible agencies from being awarded the funds to serve victims in need.

CONCLUSION

PCADV urges Congress to pass Senator Toomey's Fairness for Crime Victims Act (S.1495), which requires the Department of Justice to disburse from the Crime Victims Fund the average of the past 3 years' intake. With an ample balance in the Crime Victims Fund, now is the time to create a stable and sustainable funding formula to release additional money for the purpose Congress intended and for which it has been collected.

This concludes my testimony. I would like to again thank Chairman Enzi, Ranking Member Sanders, Senator Toomey, members of this committee, and staff for the opportunity to provide a glimpse into the powerful work domestic violence centers can do with VOCA funds. We look forward to the opportunity to provide further input to the committee on this issue in the future.

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Senator TOOMEY. Thank you very much, Dr. Dierkers.

I would like for my first question to ask Ms. Newman and D.A. Whelan both to give their perspective. It seems to me, and having toured a number of the CACs, there are multiple objectives that you are trying to accomplish when a child is brought in for an interview. You want to determine what type of treatment this child might need, what kind of harm has been sustained. There is the interest in trying to protect the child from future abuse of whatever kind. And, of course, there is the interest in prosecuting the perpetrator. These are very, very different objectives and different goals, and as I understand it, you would try to achieve progress on all of these in one place through one or a brief number of interviews.

So, my question to Mr. Whelan, who comes at this from a prosecutorial background, and Ms. Newman, who comes from a nursing background, very, very different backgrounds with a very different sort of focus, how does it work? How well does it work when you try to achieve these very different objectives in the same place at the same time?

Mr. WHELAN. Well, certainly, from the prosecutor's standpoint, we want to take dangerous criminals off the street. We want to take child abusers off of the street and prevent them from re-offending to prevent the crime from occurring again. But, we also have to realize the compassion associated with these type of crimes, and the compassion is dealing with the victims of these type of crimes, whether they are children or adults.

That is why we have been advocates of these centers. These Child Advocacy Centers are important, because they are important because they protect the child. As Ms. Newman alluded to during her comments, she had indicated—and this is what we are experiencing—if the child is a victim, that child then reports it typically to the parent or trusted adult who call the police. The police come in and then the child tells their story, exactly what occurred, to the police. Then they may go to the hospital, tell their story again. And then we have detectives interviewing the child again, and it goes on and on with the child being interviewed multiple times.

The problem is, as was pointed out by Ms. Newman, every time the child deviates, even slightly deviates, from what they explained to the previous provider, then the defense attorney in the criminal case will try to make the child sound like they are lying through cross-examination.

Senator TOOMEY. And, just to be clear, the deviation might be just remembering things one time that were forgotten a different times and that sort of deviation.

Mr. WHELAN. Correct, or remembering more than they did before.

Senator TOOMEY. Right.

Mr. WHELAN. Now, all of the sudden, they remembered more, and all of the sudden they are being faulted for remembering more, or maybe the first interviewer did not conduct a thorough interview and now the defense attorney is going to twist—and they are doing their job under the Constitution, but they are going to twist the words of the child and they are going to try to convince the jury who sits up in these courtrooms that the child is not being sincere, and in those particular cases, our burden of proof is beyond a rea-

sonable doubt, and in those type of cases, many times the jurors have doubt and those individuals are acquitted. Then they go back to re-offending, typically, and we are back to square one.

Where Child Advocacy Centers bring a multi-disciplined approach and bring all together the disciplines of that children, they bring in the psychology, the CYS worker, the police officer, the detective, the Assistant District Attorney. The child is interviewed. The interview is taped and then the taped interview is turned over to the defense attorney. And what we have found, statistically speaking, in those jurisdictions that have Child Advocacy Centers, our prosecutions are much more successful.

Senator TOOMEY. So, I think that is a really, really important point. So, you are arguing that the existence of the Child Advocacy Center, the process that they follow, that actually leads to a higher likelihood of getting a successful prosecution of the perpetrator?

Mr. WHELAN. Which is important, but equally important is that it protects the child—

Senator TOOMEY. Right.

Mr. WHELAN. —from being further victimized in the criminal justice system.

Senator TOOMEY. Right. Well, and putting perpetrators behind bars makes it impossible for them to victimize the next child, so—

Mr. WHELAN. Correct, Senator.

Senator TOOMEY. —that is really important.

Ms. Newman, now, your background is as a pediatric nurse.

Ms. NEWMAN. Yes.

Senator TOOMEY. In your experience, how has this process worked for individual children that you have seen in your facility?

Ms. NEWMAN. Let me back up a minute and say that because the CAC is neutral in fact finding, when a case comes in—when a child comes in for an interview—when the interviewer does the forensic interview, conducts it, there is no pre-set determination that something had to have happened. The questions are specifically asked in age-appropriate, open-ended fashion so that the child tells the story, if indeed there is a story to tell, in their own words. And, nobody has a better day than when the team sits in the room and watches that interview and the child says in a very credible fashion, without anybody leading them on, that there was a mistake, that somebody did not see what they thought that they saw, and there is no further investigation.

But, then you have all those other cases that come in and you have a child that has been victimized, no matter how slight. It could just be something—and I do not want to get too graphic, but something just over the clothes to something much more brutal and horrible. And, in all of those cases, that is when the CAC works really well.

As D.A. Whelan said, you have one statement. It is recorded. There is no question that it is not leading. What we often see, and I think Mr. Whelan may be able to confirm this, is that what happens is that there are plea bargains that before may never have occurred because you have a defense attorney and a defendant, you cannot prove anything, it is just a child that gave that statement, and the experience in Montgomery County has been that the district attorney will hand that defense attorney the DVD and say,

“Why do you not go watch that,” and lo and behold, not long afterwards, they come forward and have a plea bargain struck, and that is a great day, too, because then that perpetrator is off the street and that child never has to enter a courtroom, never has to go through that experience again.

Also, because of the CAC set-up, what you have are victim and family advocates and referrals to specialized medical and mental health treatment, and that is really important, because the dynamics of child abuse are very different from adult rape and domestic violence. As I said in my statement, child abusers put themselves in positions of being close to children, and most of the time, it is not a sudden act of violence. It takes place over time. The abusers take the time to groom their victims. They start with touch. I remember from the Jerry Sandusky testimony, and I know people, especially in Pennsylvania, are tired of going back to that, but one of the witnesses said, “You know, you knew when you got into a car with Coach Sandusky that his hand was going to be on your thigh.” That is how abusers work, slowly.

And, in the 50 percent of the time that it involves a family member, the dynamics of the family become so skewed. The family often would rather not say what is going on, because if it is a mother’s father or brother or husband or significant other, as it may be, who wants to see that that person who is so close to you is really a monster who is doing this to their child. And, there is often the mistaken thought that we can handle this at home. We can do this as a family and just keep the perpetrator away from the child.

But, number one, that often does not happen, because they cannot do that. And, number, two, it just leaves this person out there, as in the recent news reports about the Duggar family, where the older son—and I am just reading from the papers here—was brought back into the home and abused additional children, if those allegations are true. But, that would certainly fit the pattern of what we see.

Specialized mental health treatment is important for this. It is evidence-based. It is not just going to any old counselor, so that is important. Specialized medical treatment with pediatric sexual assault nurse examiners are very important for these children.

Sometimes for older children—and I will wrap up here, I know I am going on—it is important for them to have this medical examination just so they can be told, you are okay. Nobody can see what happened to you unless you choose to share it with somebody. That is often as important as anything else that we can possibly do at a Child Advocacy Center. Thank you.

Senator TOOMEY. Thank you very much.

Now, let me go right to one of the arguments that I have heard from people who are not supporting my legislation, which is, as you know, designed to increase the amount of funds that are distributed to the various crime victims’ groups, and maybe Ms. Moyer could lead off, but I would like to ask each of you to address this, and this argument is, well, it would be a big bump-up in funds and you really probably cannot spend it very well. So, maybe you could address that and share with us for the record exactly how you would put these resources to work if you had the knowledge that you had a sustained funding level at this higher level that would

be commensurate to the amount of money that is actually going into the fund each year.

Ms. MOYER. Well, first of all, Senator, thank you for the question, because I believe we debunk that myth. I think there is a special Internet place where they have things like that, that, oh, those people could not possibly spend that money. Of course, we can. We have executive directors taking pagers home and responding to two o'clock in the morning calls instead of doing community awareness and managing an organization.

And, let me just—I will leave you with one situation that particularly moved me, although, as you can tell, this is my passion. Women Organized Against Rape in Philadelphia, they were under construction, and because of a lack of funds, they were unable to do individual child counseling and they had to do group counseling. And, it was in the reception area. The place was under construction. And, all these kids were sitting and standing and laughing and playing, as kids are wont to do, and the construction workers came in and said, "Gee, I did not realize you were running a day care center." And, the ED explained to them that this, in fact, was a group of children who had been sexually abused. One of the children was a four-year-old who would live with a colostomy bag for the rest of her life. And, I apologize for being graphic, but sometimes I think we need to be, because these children are living their lives with this constant reminder, physical or emotional, and there is no way to undo that.

I appreciate our collegiality with CACs and our dedication of our district attorneys and our sister coalition in child abuse cases, but if you have a group of children acting as if it were an ordinary day at a day care center, and if you could see the rooms where play therapy happens, it looks like a day care center, but it is a place where children who have been raped by monsters go to heal, I think there would be no doubt in your mind that we could find good use for this funding.

We need more prevention educators. We need outreach to men and boys, and in an intentional way. Prevention is no longer a dirty word. I think we realize that it does work. And, as a law enforcement officer once said to me, "Diane, these are one-man crime waves," and we need all these resources to get these monsters off the street, and with your help, Senator, I think we can do that very easily.

Senator TOOMEY. Thank you.

Dr. Dierkers, would you care to address the question.

Ms. DIERKERS. Yes. As I mentioned in my testimony, housing is a particular concern for domestic violence victims and we need various forms of housing. Often, economic abuse is a common tactic used, and it may take a survivor some time to recover economically and be able to support themselves and their children. Legal services, because when children are in a domestic violence home, often, the children are being abused, and we know from research now, longitudinal research, the children who even witness abuse will sustain life-long impacts if there is not support, help, and healing for them.

We were really gearing up in terms of our children's services, because, as I mentioned, we do see thousands and thousands of chil-

dren through our Domestic Violence Centers every year. We were just gearing up specialized services when the recession hit. So, that is an area that we would definitely dedicate money to, as well, as well as legal services.

Senator TOOMEY. And, Ms. Newman, my understanding is the large majority of Pennsylvania counties do not have their own Child Advocacy Center, so victims have a long way to go to get to the nearest one in many cases. I assume additional funding would help lead to the development of additional facilities, is that true?

Ms. NEWMAN. Absolutely. In Pennsylvania, there are only 23 counties that actually have Child Advocacy Centers. the Pennsylvania Task Force on Child Protection in 2012 said that the number one priority for the safety of Pennsylvania's children from sexual predators should be to have a Child Advocacy Center, and they said within two hours of every child. District Attorney David Heckler, who chaired that task force, said that had there been a CAC in Centre County, again, at the time of Jerry Sandusky, that he would have been stopped after victim number one. So, how many children would that have saved who came forward? We do not even know how many never came forward.

It costs money for these centers. Two hours is a long way. That is a long time, especially if you have parents that are taking off from work that have to go, that may have to use public transportation to get there. They may have other children that they need to bring with them to the center. At the State Chapter of CACs, we would like to see that brought down a lot closer to an hour, and even that is a long way, because, again, you have children. They get tired. They are already traumatized. The family is already traumatized. We do not necessarily have to have a CAC in every county, as was alluded to. There are a lot of rural areas in Pennsylvania. But, certainly, regional centers need to be developed and built to help all of the children have access. Thank you.

Senator TOOMEY. And just so that everybody understands, you folks are not dealing with abstractions. You are dealing with real human beings, people who have been victimized. And Dr. Dierkers gave a great example of a woman named Kendra and her circumstances.

Ms. Moyer or Ms. Newman, is there maybe a brief story of a particular victim that you would like to share with us so that we can sort of see exactly the kind of person and the circumstances in which the work that you do is so helpful?

Ms. NEWMAN. Do you mind if I go first?

Ms. MOYER. No, not at all.

Ms. NEWMAN. Thank you. I am just—I am particularly passionate about one story. He is actually the inspiration and the reason that Montgomery County has a CAC. His name is Sasha. He grew up on the Main Line, very close to where we are sitting right now. Child abuse knows no economic boundary, zip code, or religion.

When he was a young child, he was in an intact family, mother, father, younger sister. Uncles came down to visit, father's brothers, one of whom was a very well known cantor up on the Upper East Side of New York in a large synagogue there. For people that may not be familiar, a cantor is a cantor rabbi in the Jewish faith.

Sasha went from being a very normal child to, as his mother describes, one that she had to try to keep alive, because he suddenly walked around with underwear over his head and a knife to his throat, tried to jump out of moving cars while she was driving. She brought him to numerous therapists who had no idea what was going on. And, as Sasha tells the story now as an adult, he said he was finally able to disclose to one of the many psychiatrists that they were bringing him to when he saw his uncle go in and attempt to abuse his younger sister. And that was what finally allowed him to disclose the terrible rape that had been happening to him over and over and over again.

Sasha's mother, when she told her husband about it, his response was, "I probably should have realized what was going on because they did the same thing to me when I was a child." Again, the dynamics of intra-familial sexual abuse. It can be generational, as well.

They were brave enough to report it. The mother went to Risa Vetri Ferman, our current District Attorney in Montgomery County. She was an Assistant District Attorney at that time. Ten years, from when Sasha was seven until he was 17 years old, before that case finally ended with a low plea deal for the cantor.

I remember before I was ever involved with this movement watching on the 11 p.m. news, busing in supporters of the cantor from the Upper East Side of New York to say to the District Attorney of Montgomery County, "How dare you prosecute our clergy, our member, our leader."

Sasha went to college. He moved out to Montana to get to this area. And, I have had a lot of memorable days at Mission Kids. I think that one of the ones that sticks out most in my mind is the day that Risa sent him to Mission kids to see, because of what he had been through, what developed. And he came into the center and I saw this rough, just graduated college student melt back into a little boy, and he looked at the stuffed animals around the room and he said, "Oh, my God, I would have loved this place. You feel like you are enveloped by the stuffed animals in here."

And we had a bowl of just snacks on the table, pre-wrapped snacks for the kids when they came in. And he said, "Oh, those are great. I am so glad you do not have vending machines." And, I was really surprised, and I said, vending machine? Why? It never occurred to me one way or the other, but why? And, he said, "Because I cannot tell you how many dozens of times I was at police stations and the District Attorney's office and I was there for hours and I was hungry and the only thing to eat was in the vending machine."

That is my story. Thank you.

Senator TOOMEY. Thank you.

Ms. MOYER.

Ms. MOYER. Yes. I would like to talk about—we have not talked about the campus sexual assault, and I am happy to say that we are addressing that more fully, as well. But, we had a victim and the campus judicial hearing did not go well. But, she knew that she had a place to go. What I always tell our advocates is that we do not make promises we cannot keep. We have confidential services, but we have a duty to report, but we always believe our victims.

The only respite this individual had from what was a botched—clearly, a botched hearing at the campus level, and it was very problematic. The District Attorney and I, on the side of right, of course, were trying to help this victim, but there was a lot of push-back from the campus. But, what the victim did have was belief in her story and the offer of safety and services, trauma-informed, and the courage to go on with her life and move to another campus and successfully graduated because she did not get the justice that she deserved, and that does happen to victims quite a bit. But, what we do give them is belief, help, hope, and healing, and that is what every victim deserves.

Senator TOOMEY. Thank you very much.

We are getting to the end of our allotted time here, and I just wanted to make sure if any of our witnesses had a final point they wanted to make that they felt we did not have a chance to develop earlier, this would be a good time. Does anybody have any last points?

Mr. WHELAN. No, just to thank you for hosting this event today, Senator.

Senator TOOMEY. Well, thank you.

So, let me—really, I want to thank each of our witnesses very much. This is very, very helpful and powerful testimony and it will help us to make the case for why we need to do the right thing, stop the dishonest budgetary gimmicks and start allocating the resources that ought to be going to crime victims' advocacy groups.

I want to thank people who are in the audience. I know many of the people here are working in the front lines, helping to support and help the victims of all kinds of crime. So, I appreciate the work that you do day in and day out. I know how hard that work is and I am grateful to you for being here.

I do, once again, want to thank Villanova Law School for making this wonderful facility available to us and being kind enough to invite us in to have this hearing.

And, I just want to assure everybody, this is a high priority of mine, and as a member of the Budget Committee, I will be able to ensure that we take this up in the committee. I am confident that we can pass the legislation in committee, and that will give us a chance to bring it to the Senate floor. My hope is that this year, we will find a vehicle that will allow us to enact this legislation and provide the certainty of funding going forward at this much higher level that is, after all, only commensurate to the amount of money that criminals are putting into this fund every year.

So, I really thank you for all your help. I am going to need to continue to ask you to help and keep the pressure on my colleagues so that we can get this done. But, I am confident we will get this across the goal line.

So, thank you very much, and with that, the hearing is adjourned.

[Whereupon, at 11:12 a.m., the committee was adjourned.]

'14 Domestic Violence Counts National Summary

On September 10, 2014, 1,697 out of 1,916 (89%) identified domestic violence programs in the United States participated in the 2014 National Census of Domestic Violence Services. The following figures represent the information provided by these 1,697 participating programs about services provided during the 24-hour survey period.

67,646 Victims Served in One Day

36,608 domestic violence victims found refuge in emergency shelters or transitional housing provided by local domestic violence programs.

31,038 adults and children received non-residential assistance and services, including counseling, legal advocacy, and children's support groups.

This chart shows the percentage of programs that provided the following services on the Census Day.

Services Provided by Local Programs:	Sept. 10
Individual Support or Advocacy	98%
Children's Support or Advocacy	85%
Emergency Shelter	79%
Transportation	55%
Court Advocacy/Legal Accompaniment	53%
Prevention or Education Programs	53%

20,845 Hotline Calls Answered

Domestic violence hotlines are a lifeline for victims in danger, providing support, information, safety planning, and resources. In the 24-hour survey period, local and state hotline staff answered 20,845 calls and the National Domestic Violence Hotline staff answered 1,283 calls, averaging more than 15 hotline calls every minute.

23,506 Attended Prevention and Education Trainings

On the survey day, 23,506 individuals in communities across the United States and territories attended 1,157 training sessions provided by local domestic violence programs, gaining much-needed information on domestic violence prevention and early intervention.

10,871 Unmet Requests for Services in One Day, of which 56% (6,126) were for Housing

Victims made more than 10,000 requests for services—including emergency shelter, housing, transportation, childcare, legal representation, and more—that could not be provided because programs did not have the resources to provide these services. The most frequently requested non-residential services that could not be provided were housing advocacy, legal representation, and financial assistance.

Cause of Unmet Requests for Help

- 28% reported reduced government funding.
- 18% reported not enough staff.
- 18% reported cuts from private funding sources.
- 14% reported reduced individual donations.

Across the United States, 1,392 staff positions were eliminated in the past year. Most of these positions (76%) were direct service providers, such as shelter staff or legal advocates. This means that there were fewer advocates to answer calls for help or provide needed services.

"Housing is a constant need for domestic violence survivors. We get calls and walk-ins almost every day from women, most with children, who are fleeing abusive situations and are in desperate need of housing. We always have a waiting list."

—Utah Advocate



2013 Domestic Violence Counts: A 24-Hour Census of Domestic Violence Shelters and Services

'14 Domestic Violence Counts Pennsylvania Summary

On September 10, 2014, 60 out of 60 (100%) identified local domestic violence programs in Pennsylvania participated in the 2014 National Census of Domestic Violence Services. The following figures represent the information reported by the 60 participating programs about services provided during the 24-hour survey period.

2,498 Victims Served in One Day

1,373 domestic violence victims (713 children and 660 adults) found refuge in emergency shelters or transitional housing provided by local domestic violence programs.

1,125 adults and children received non-residential assistance and services, including counseling, legal advocacy, and children's support groups.

This chart shows the percentage of programs that provided the following services on the Census Day.

Services Provided by Local Programs:	Sept. 10
Individual Support or Advocacy	100%
Children's Support or Advocacy	90%
Emergency Shelter	80%
Court/Legal Accompaniment/Advocacy	80%
Group Support or Advocacy	52%
Advocacy Related to Housing/Office/Landlord	43%
Transportation	38%
Legal Representation by an Attorney	28%

744 Hotline Calls Answered

Domestic violence hotlines are a lifeline for victims in danger, providing support, information, safety planning, and resources. In the 24-hour survey period, local and state hotlines answered 744 calls, averaging 31 hotline calls every hour.

1,941 Educated in Prevention and Education Trainings

On the survey day, 1,941 individuals in communities across Pennsylvania attended 62 training sessions provided by local domestic violence programs, gaining much-needed information on domestic violence prevention and early intervention.

252 Unmet Requests for Services in One Day, of Which 73% (184) Were for Housing

Victims made more than 250 requests for services, including emergency shelter, transitional housing, and non-residential services, which could not be provided because programs did not have the resources to provide these services. The most frequently-needed service that couldn't be provided was housing, followed by legal representation.

Cause of Unmet Requests for Help

- 27% reported reduced government funding.
- 17% reported cuts from private funding sources.
- 15% reported not enough staff.
- 10% reported reduced individual donations.

Across Pennsylvania, 46 staff positions were eliminated in the past year; most of these positions were direct services (75%), such as shelter or legal advocates, so there were fewer advocates to answer calls for help. Thirty-seven individual services at local programs were reduced or eliminated in the past year.

"On Wednesday, September 10, 2014, a current client called the center wanting to talk about a recent violation of her PFA and to let an advocate know that there was going to be a court hearing regarding the violation later that afternoon. She requested that she would like an advocate to be there to support her at the hearing. An advocate was available to attend the hearing. At the hearing, the client met with an Assistant DA and our attorney was also available to meet this client as she was the attorney who represented her at the original PFA hearing. The defendant pled guilty and was sentenced to jail time. The client felt relieved that she did not have to testify and that her PFA was extended."

— Advocate



2014 Domestic Violence Counts: A 24-Hour Census of Domestic Violence Shelters and Services

FIELD HEARING ON TAX-RELATED IDENTITY THEFT AND FRAUDULENT TAX RETURNS

Wednesday, August 26, 2015

U.S. SENATE

COMMITTEE ON THE BUDGET MANCHESTER, NH

The committee met, pursuant to notice, at 2:00 p.m., in Room 201, UNH Manchester Campus, 88 Commercial Street, Hon. Kelly Ayotte presiding.

Present: Senator Ayotte.

OPENING STATEMENT OF SENATOR AYOTTE

Senator AYOTTE. I just wanted to welcome all of you here today. My name is Senator Kelly Ayotte, and I'm very glad to have the opportunity today to hold an important field hearing.

I serve on the Budget Committee in the Senate, and one of the important topics that we have dealt with not only on the Budget Committee but, another committee I serve on, the Homeland Security and Government Oversight Committee, is tax-related identity theft and fraudulent tax returns.

So I'm going to call this hearing to order.

For my constituents that are here today, this will be part of the official Senate record. We're having this as a field hearing, but it will be part of the Budget Committee's official record. So that's why you see me here with the gavel in this setting, and also I've got some staff members here from Washington, the Budget Committee, as well as my own staff.

So I'm going to call this hearing of the Budget Committee to order.

We have on the first panel two witnesses with us, Ms. Lori Weeks from Strafford, New Hampshire; and also Mr. John Walker, from New Hampshire as well.

I will begin this hearing by giving an opening statement, and then I'm going to turn to our witnesses to provide us with information and to give their opening statements.

I want to thank all of you for joining us today for this important field hearing of the Senate Budget Committee. I would like to thank all the witnesses on both panels that you'll hear today for their time and for their willingness to participate in this important discussion.

We're here today to discuss a growing problem not only in New Hampshire but across the country, and that's tax-related identity theft. Tax-related identity theft is a very serious problem that's growing, unfortunately, at epidemic proportions. According to the Treasury Inspector General for Tax Administration, about 2.4 million taxpayers' names or Social Security numbers were used to file fraudulent tax returns in 2013, when this data was looked at. That's a 10-fold increase from 2010, and we've seen further activity in 2014 and beyond.

With major data breaches occurring more frequently, most recently with the Office of Personnel Management, when millions of people who have gone through a Federal background check had their personal information breached. I'm concerned that we will see

additional cases of tax fraud that impact even more taxpayers in the future.

Filing a tax return should be easy, but for an increasing number of taxpayers, they find themselves victims of identity theft. This is too often the beginning of a frustrating and burdensome process that can take even months or years to resolve. These innocent taxpayers frequently find themselves in a confusing and frustrating maze of bureaucratic red tape. I've heard stories from my constituents, some of whom are here today and some of whom couldn't be here today, who have been caught up in this maze of frustration.

Not only do taxpayers have to spend too often countless hours collecting and submitting the necessary documents to prove their identities, they're often given conflicting instructions and inconsistent messages from the IRS.

Or worse, they've had a lot of difficulties reaching the IRS. Instead of focusing on regaining and safeguarding their personal identities, tax fraud victims spend hours simply trying to prove who they are actually to the IRS, and that's wrong. I'm very glad to have the IRS Commissioner here today. We must do more to address this issue and better assist taxpayers who are facing this problem.

One of those taxpayers we have here today is Lori Weeks from Strafford, New Hampshire, and I want to thank Lori for her willingness to share her story today and for her courage. Lori has endured something that no mother should ever have to experience, and that's the loss of her daughter, Madison, in a tragic car accident. That heartbreaking loss was compounded when Lori's husband learned that Maddi's identity had been stolen and used to file three fraudulent tax returns.

But when Lori asked the IRS for copies of the fraudulent returns so that she could find out how much of her family's personal information was compromised, the IRS said it could not provide her with information or a copy of the fraudulent tax return, citing privacy concerns.

Tax fraud victims shouldn't be left in the dark regarding the full extent of what personal information was stolen, and the least the IRS can do is to provide them with copies of the fraudulent returns so that they can understand how their information was manipulated and used fraudulently.

On behalf of Lori and other New Hampshire families I wrote to Commissioner Koskinen—who is here with us today, and he will be testifying on the second panel—this spring and asked the IRS to change its policy and to provide victims of tax fraud with copies of fraudulent returns filed on behalf of the tax fraud victim.

In response, the Commissioner has agreed to establish a process in which identity theft victims can obtain copies of fraudulent returns, and I look forward to hearing an update on where that policy change is today. I thank the Commissioner for agreeing to change that policy, and I certainly urge the agency to get this process in place as soon as possible.

I've also heard from several tax fraud victims in New Hampshire who continue to struggle to get their refunds from the IRS, even after having proven their identities to the agency. One constituent from Bath told me that the IRS told him that he should receive a

refund within six weeks of proving his identity. When eight weeks passed without any progress, he called the IRS again to follow up. After waiting on hold for 45 minutes, this individual was told that processing his case would take up to six months.

The IRS' mission is to provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities, and by applying the tax law with integrity and fairness to all. However, these examples demonstrate the IRS is falling short of fulfilling this mission.

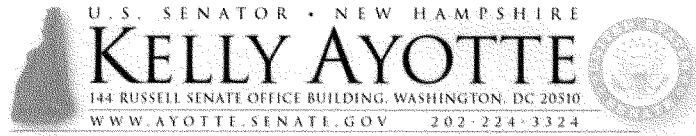
In her latest report to Congress, Nina Olson, the Taxpayer Advocate, notes that the IRS continues to view itself as an enforcement agency first and a service agency second. I know the IRS is taking some important steps to reduce fraud that have been recently announced. I appreciate those efforts, and we want to hear about those efforts today, including enhanced collaboration with representatives of tax preparation and software firms and other tax industry partners, and a new policy to earlier match W-2 information received from employees and employers. However, it is clear that much more must be done to prevent fraud from occurring in the first place to make sure that people aren't victims of identity theft and to better help victims when fraud does occur.

Congress can also play a very important role to the extent that legislative fixes are needed to reduce fraud. Earlier this year I worked with Senator Ron Johnson from Wisconsin, who is the chairman of the Homeland Security Committee, and Mark Warner of Virginia to help introduce the bipartisan Social Security Identity Defense Act of 2015. This proposed legislation would require the IRS to notify an individual if it has reason to believe that someone's Social Security number has been fraudulently used. So notifying victims is incredibly important. It also requires the IRS notify law enforcement, and requires that the Social Security Administration to notify employers who submit fraudulently used Social Security numbers. This bill adds civil penalties and extends jail time for those who fraudulently use an individual's Social Security number.

The purpose of our hearing today is to take a critical look at how the IRS handles tax-related identity theft cases, with the goal of identifying necessary steps the IRS must take to improve its response to this growing problem.

I want to welcome our first panel, Lori Weeks of Strafford, and John Walker, a tax preparer based in Concord, who will share his experience working on tax-related identity theft cases for his clients.

During the second panel we will, hear from the IRS Commissioner, John Koskinen. We will also hear from the Inspector General, J. Russell George, from the Treasury Department. We appreciate the Inspector General being here today. We will also hear from Mr. Christopher Lee of the National Taxpayer Advocate Service, to examine the IRS' administrative practices and look at ways on how we can improve service to taxpayers and make sure that we're more responsive and can take steps that need to be taken to prevent identity theft in the first place.



FOR IMMEDIATE RELEASE
 Wednesday, August 26, 2015
 Contact: Ayotte Press Office
 202-224-3324

AYOTTE OPENING STATEMENT FOR BUDGET COMMITTEE FIELD HEARING ON TAX IDENTITY THEFT

MANCHESTER, NH – In advance of today's Senate Budget Committee field hearing in Manchester entitled, "Tax-Related Identity Theft and Fraudulent Tax Returns", following is the text of U.S. Senator Kelly Ayotte's opening statement as prepared for delivery:

Thank you all for joining us today at this field hearing of the Senate Budget Committee. I'd like to thank all of the witnesses for their time and for their willingness to participate in this important discussion. We're here today to discuss a growing problem, not only in New Hampshire, but across the country – tax-related identity theft.

Tax-related identity theft is a serious problem that is growing at epidemic proportions. According to the Treasury Inspector General for Tax Administration, about 2.4 million taxpayers' names or Social Security numbers were used to file fraudulent tax returns in 2013. That's a nearly tenfold increase since 2010. And with major data breaches occurring more frequently, I am concerned that we will see tax fraud affect even more taxpayers next year.

Filing a tax return should be easy. But for an increasing number of taxpayers who are victims of identity theft, it's too often the beginning of a frustrating and burdensome process that can take months or even years to resolve.

These innocent taxpayers frequently find themselves in a confusing and frustrating maze of bureaucratic red tape. Not only do taxpayers have to spend countless hours collecting and submitting the necessary documents to prove their identities, they are often given conflicting instructions and inconsistent messages from the IRS. Or worse, they cannot reach the IRS at all. Instead of focusing on regaining and safeguarding their personal identities, these tax fraud victims spend hours simply trying to prove who they are to the IRS.

That's just wrong. And the IRS must do more to address this issue and better assist taxpayers who are facing this problem.

One of those taxpayers is Lori Weeks of Strafford, New Hampshire. I want to thank Lori for her willingness to share her story today.

Lori Weeks has endured something that no mother should ever have to experience – the loss of her daughter, Madison, in a tragic car accident.

That heartbreaking loss was compounded when Lori and her husband learned that Maddi's identity had been stolen and

used to file three fraudulent tax returns. But when Lori asked the IRS for copies of the fraudulent returns, so that she could find out how much of her family's personal information was compromised, the IRS said that it could not provide her with this information, citing privacy concerns.

Tax fraud victims should not be left in the dark regarding the full extent of what personal information was stolen, and the least the IRS can do is provide them with copies of their fraudulent returns so that they may secure their personal identity. On behalf of Lori and other New Hampshire families, I wrote to Commissioner Koskinen this spring and asked the IRS to change its policy and provide victims of tax fraud with copies of fraudulent returns filed in their names. In response, the commissioner has agreed to establish a process through which identity theft victims can obtain copies of fraudulent returns, and I urge the agency to get this process in place as soon as possible.

I have also heard from several tax fraud victims in New Hampshire who continue to struggle to get their refunds from the IRS, even after proving their identities. One constituent from Bath told me that the IRS told him that he should receive a refund within 6 weeks of proving his identity. When 8 weeks passed without any progress, he called the IRS again to follow up. After waiting on hold for 45 minutes, this individual was told that processing his case could take up to 6 months.

The IRS's mission is to "provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all." However, as these examples demonstrate, the IRS is falling woefully short of fulfilling that mission. In her latest report to Congress, Nina Olson, the Taxpayer Advocate, notes that "the IRS continues to view itself as an enforcement agency first and a service agency second."

While the IRS is taking some steps to reduce fraud -- including enhanced collaboration with representatives of tax preparation and software firms and other tax industry partners, and a new policy to earlier match W-2 information received from employees and employers -- it's clear that much more must be done to prevent fraud from occurring in the first place, and to better help victims when fraud does occur.

Congress can also play a role to the extent that legislative fixes are needed to reduce fraud. Earlier this year, I worked with Senators Ron Johnson of Wisconsin and Mark Warner of Virginia to introduce the bipartisan Social Security Identity Defense Act of 2015, which would require the IRS to notify an individual if it has reason to believe the individual's Social Security number has been fraudulently used. It also requires that the IRS notify law enforcement and that the Social Security Administration notify employers who submit fraudulently used Social Security numbers. The bill adds civil penalties and extends jail time for those who fraudulently use an individual's Social Security number.

The purpose of our hearing today is to take a critical look at how the IRS handles tax-related identity theft cases -- with the goal of identifying necessary steps the IRS must take to improve its response to this growing problem. I want to welcome our first panel: Lori Weeks of Strafford and John Walker, a tax preparer based in Concord, who will share his experience working on tax-related identity theft cases. During the second panel, we will hear from IRS Commissioner John Koskinen, Inspector General J. Russell George, and Mr. Christopher Lee of the National Taxpayer Advocate Service, to examine the IRS' administrative practices and look at ways to improve service from the taxpayer's perspective. Again, I want to thank you all for being here today.

And now I'd like to call on our first witness, Lori Weeks, to give her opening statement. Thank you, Lori.

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Again, I want to thank all of you for being here today, and now I would like to call on our first witness.

Again, I want to thank Lori Weeks for being here to offer her opening statement.

Ms. Weeks.

**STATEMENT OF LORI WEEKS, STRAFFORD, TAX-RELATED
IDENTITY THEFT VICTIM**

Ms. WEEKS. Good afternoon. My name is Lori Weeks, or, as I prefer to be referred to, Maddi's mama. This is my daughter, Madison Charlotte Weeks. Madison was born on June 23, 2006. She was our first child. Through the years, Madison grew into a precocious little thing with a brilliant mind and an empathy for people that is rarely seen in a child her age. That empathy pushed her to continuously thank each and every veteran we passed on the street, to raise money for the fight against childhood cancer and to volunteer for the March of Dimes, the organization that helped save her baby sister when she was born prematurely.

Like I said before, Madison had a brilliant mind and in 2nd grade tested at an end of 5th grade reading, writing, math and science level. We were so proud but not surprised. Madison was a talented dancer and was well loved by every person she had ever met.

Madison was a Girl Scout, an artist, an animal lover, a big sister, a best friend, my best friend. She had dreamed of opening a veterinarian's office when she grew up that offered free care to those who could not afford it.

On February 19, 2014, on our way to dance class, in the middle of her 6th year of dancing, we hit black ice. I hit black ice. We went off the road. We were okay, but in the blink of an eye another motorist, distracted, did not see our vehicle and did not slow down. She hit our car and took the life of our precious daughter. Our lives are irreparably destroyed.

In March of 2015, my husband and I prepared to file our taxes. As we walked in I was having trouble breathing. Tears were already welling in my eyes. As we sat and reviewed our tax documents, I could not stop crying. This would be the last time, legally, on paper, that I could say I am the mother of two daughters. I finished up this painful process and later that day my husband went to sign our documents. This is when we found out. What we had left, that fleeting moment in time, had been stolen. Madison's identity had been stolen and someone else had claimed her on their taxes.

When your child goes on before you, all you have left is their memory, their identity, and you will tirelessly work to protect it. All I could hear in my head was that I had failed to protect Maddi's life, and now I had failed to protect her identity. Our tax preparer could offer little assistance. She was kind but completely unaware of what our next step should be.

We filed a police report with our local police department, only for them to treat us like we were crazy for doing so and telling us that it was unnecessary. I spent hours and hours on the phone trying to figure out what to do. Most of that was spent on hold. I spoke to multiple agencies and multiple representatives within each of

those agencies, most of whom, their calls led me back to another agent who just couldn't help me. Many encouraged me to file without Maddi on our return so we could get our money. It was never about the money. I had to get Maddi's name back. It's all we have now. So we just kept searching for answers, searching for someone to help us.

That is when a friend reached out to me and told me to contact Senator Ayotte's office. From there the ball really got rolling. We were put in contact with the Tax Advocate's office and they were able to see that Maddi's name had been filed at least three times, all of which had been rejected. Despite these attempts to fraudulently claim our child, we were never contacted by any IRS representative to make us aware that this had happened.

With the help of Senator Ayotte's office and the Tax Advocate we were able to go through the proper avenues to protect her name further, stop any kind of continuing fraud using her Social Security number or otherwise, and we were able to file our taxes, as a family of four, for the very last time.

We received our return, and then that was it, nothing to tell us what these disturbed individuals who would raid a deceased child's identity knew about our daughter. Was it just her Social? Did they know anything about her medical history? Do they have personal information about her death? Do we know them? It was quite literally, 'Here's your check and be gone with you.'

After a newspaper article about our family and a few television interviews, we were told the IRS is going to be giving victims access to the fraudulent returns and the information contained within them. That was months ago and we still are no closer to knowing what we must know than we were the day we found out Maddi's identity had been stolen.

More than 50 percent of grieving parents, parents whose children passed away before their 13th birthday, will have their child's identity stolen. And many will never even get as far as we have. We are not the rule; we are the exception. And it seems like the bad guys win in every case because although we got our daughter's name back, we do not know what they know about our daughter, and they will likely never face punishment for the crimes committed against our family.

It's time we step up and we empower our citizens to protect themselves and their children against these predators and to say enough is enough. Thank you.

[Applause.]

[The prepared statement of Ms. Weeks follows:]

Testimony for the Senate Budget Meeting

Good afternoon. My name is Lori Weeks, or, as I prefer to be referred to, Maddi's Mama. This is my daughter, Madison Charlotte Weeks. Madison was born on June 23, 2006. She was our first child. Through the years Madison grew into a precocious little thing with a brilliant mind and an empathy for people that is rarely seen in a child so young. That empathy pushed her to continuously thank each and every veteran we passed on the street... to raise money for the fight against childhood cancer and to volunteer for the March of Dimes... the organization that helped save her baby sister when she was born prematurely. Like I said, Madison had a brilliant mind and in 2nd grade tested at an end of 5th grade reading, writing, math and science level. We were so proud but not surprised. Madison was a talented dancer and was well-loved by every person she ever had any kind of contact with. Madison was a girl scout, an artist, an animal lover, a big sister, a best friend. She had dreamed of opening a veterinarian's office when she grew up that offered free care to those who could not afford it. On February 19, 2014...on our way to dance class...in the middle of her 6th year of dancing... we hit black ice...I hit black ice... we went off the road. We were ok but in a blink of the eye another motorist, distracted, did not see our vehicle and did not slow down...and hit our car and took the life of our precious Madison. Our lives are irreparably destroyed. In March of 2015, my husband and I prepared to file our taxes. As I walked in I was having trouble breathing... tears were already welled in my eyes... as we sat and reviewed our tax documents I could not stop crying. This would be the last time, on paper...legally... that I could say I am the Mother of two daughters. I finished up this painful process and later that day my husband went to sign our documents. This is when we found out. What we had left... that fleeting moment in time... had been stolen. Madison's identity had been stolen and someone else had claimed her on their taxes. When your child goes on before you... all you have left is their memory...their identity ... and you will tirelessly work to protect it. All I could hear in my head was that I had failed to protect Maddi's life and now I had failed to protect her identity. Our tax preparer offered little assistance, she was kind but completely unaware of what we should do next. We filed a police report with our local police department only for them to treat us like we were crazy for doing so and telling us it was unnecessary. I

spent hours and hours on the phone trying to figure out what to do. I spoke to multiple agencies and multiple representatives within each agency and most of those calls led back to another agent who just couldn't help me. Many encouraged me to file without Maddi on our return so we could get our money. It was NEVER about the money... I had to get Maddi's name back. It's all we have now. So we just kept searching for answers, searching for someone to help us. That is when a friend reached out to me and told me to contact Senator Ayotte's office. From there the ball really got rolling. We were put in contact with the tax advocates office and they were able to see that Maddi's name had been filed at least three times... all of which had been rejected. Despite these attempts to fraudulently claim our child, we were never contacted by any IRS representative to make us aware that this happened. With the help of Senator Ayotte's office and the tax advocate we were able to go through the proper avenues to protect her name further, stop any kind of continuing fraud using her social security number or otherwise and we were able to file our taxes, as family of four, for the very last time. We received our return and then that was it. Nothing to tell us what these disturbed individuals who would raid a deceased child's identity, knew about our daughter. Was it just her social? Did they know anything about her medical history? Do they have personal information about her death? Do we know them? It was quite literally, "Here's your check and be gone with you." After a newspaper article about our family and a few television interviews, we were told the IRS is going to be giving victims access to the fraudulent returns and the information contained within... that was MONTHS ago and we still are no closer to knowing what we must know then we were the day we found out Maddi's identity had been taken. More than 50% of grieving parents, parents whose children passed away before their 13th birthday, will have their child's identity stolen. And many will never even get as far as we have. We are not the rule, we are the exception. And it seems like the bad guys win... in every case... because although we got our daughter's name back we do not know what they know about our daughter... and they will likely never face punishment for the crimes committed against our family. It is time to empower our citizens to protect themselves and their children against these predators and to say enough is enough.

Thank you.

Senator AYOTTE. Thank you. Thank you so much. I know all of our thoughts and prayers are with you for your courage. Thank you for being willing to be at this hearing today to help other parents so that they don't have to go through this.

I would like to also welcome Mr. John Walker. Mr. Walker is here to talk about his experience as a professional and his work with many clients who, unfortunately, have dealt with identity theft issues and theft of their personal information.

Mr. Walker, thank you for being here.

**STATEMENT OF JOHN C. WALKER, ENROLLED AGENT, J.
WALKER & COMPANY LLC**

Mr. WALKER. Thank you, Senator, and thank you for holding this hearing. My name is John Walker. I am an enrolled agent in private practice. I was asked to testify today from the perspective of an enrolled agent and the impact tax-related identity theft is having on the professional community.

Just to clarify, for those who are not familiar, when we talk about the professional community, I'm referring to the four groups of tax professionals that we generally talk about: enrolled agents, CPAs, attorneys, and then all other preparers. Generally, it is enrolled agents like myself, CPAs and attorneys who are authorized by Circular 230, which is the Treasury regulations, to represent taxpayers before the Internal Revenue Service. Other preparers, with a few very limited special exceptions, do not represent taxpayers.

I represent taxpayers such as Lori and others who have problems dealing with the IRS, have these experiences, have jobs, family, responsibilities that they must move forward with, and they turn to someone like me, or an attorney, or a CPA, to handle the dealing with the IRS, do the investigation, because we know the system.

As a professional, I am a member of the National Association of Enrolled Agents, the National Association of Tax Professionals, the National Society of Accountants, and I'm currently on the Board of the New Hampshire chapter of the National Society of Accountants.

On a monthly basis I participate with members of the IRS and 15 to 30 other tax professionals from around New York and New England in what are called IMRS telephone conferences. IMRS is the IRS' own Issue Management Resolution System.

In addition, twice a year I participate in taxpayer liaison meetings, one of which we host here in New Hampshire, and that is two dozen tax professionals and IRS managers meeting for half a day to discuss in depth the issues in our tax system.

So with that as a background, I can tell you the issue that I am hearing over and over and over again from other professionals is that as a result of tax-related identity theft and the escalation of fraudulent returns, tax professionals are increasingly finding themselves shut out of being able to get the information they need to help their clients, to help the victims of these identity thefts.

It's regrettable, but in their haste to respond to the explosion of fraudulent returns, the IRS has severely restricted or blocked entirely access to taxpayer information by those three professional groups—enrolled agents, CPAs and attorneys—who are responsible

for representing those victims. As a representative, just like an attorney, we speak for the victim. We step into their shoes, we put in the time, the hours, to try to find solutions.

This is happening even when a taxpayer has specifically authorized us on a Federal power of attorney, which is an IRS document, to represent them in the identity theft matter. I recently had one that was filed in August, and it is continually rejected for being posted because their 2014 tax year has already been flagged as having had an identity theft.

The general consensus of so many professionals right now is that we feel like the IRS, instead of working with the professional community to speed resolution of these cases, is making it increasingly difficult and sometimes impossible to help these clients.

Furthermore, and this is terribly important from a professional point of view, the victims of identity theft are still expected to comply with all other aspects of the tax law, to timely file their returns, pay their taxes, make estimated tax payments, continue installment payments, and fulfill obligations under an Offer and Compromise, if they have one.

Ordinary, routine tax problems will arise in those other compliance issues—the estimated payments posted to the wrong account or the wrong year, just to give you one example. To assist the taxpayer with any of those problems and do it quickly and efficiently and get it corrected requires that we continue to have access to the same information we had before the identity theft occurred.

On a case I'm currently working now, the taxpayers came out of bankruptcy last year. As part of their bankruptcy plan, they're paying on past tax debt. I cannot get any records to find out if those payments are being correctly applied to their past tax debt, and that is something that we used to have routinely as a matter of being able to represent people.

Normally, a representative would have online access to a client's tax information using a tool that's very different from the tool that was out there and became such a problem earlier this year. The professional tool works much more like what most of us use to manage our personal bank accounts, perhaps even our medical accounts, make our utility payments, credit card accounts, insurance, student records, and the like. In other words, access to it is known only to us.

What makes this all the more frustrating for tax professionals is that very often a representative or someone posing as a representative, or someone claiming to be the taxpayer, can call the customer service number. Granted, they have to sit on hold anywhere from an hour to two hours, so it becomes an endurance contest. They get a customer service rep. They can answer a few simple questions, Social Security number, address and so on, and the representative will mail, fax, or even read the information to them over the phone.

So from a professional standpoint, the information that we used to be able to get in 5 or 10 minutes online and get a problem solved, now we may be able to get if we're willing to sit for two hours on the phone and talk to someone. It's delaying the whole process, and that is creating a backlog of unsolved, routine problems in addition to and over and above and beyond the identity theft problems, which are exploding.

One specific example, a suggestion I can make to the IRS, is that with the professional community, they ought to be doing exactly the opposite. They should be requiring professionals to get the information online, beef up the security around that tool, and that would relieve some of the burden on the phone system, which does have to be there to service taxpayers who are not represented.

For example, recently I had to get a copy of a bank statement on my personal account. There were only two ways I could get it. I could not get it by calling the bank and saying please mail it to me. I had to either show up at a branch office with a photo identity and prove who I was and they would print it for me at that office, or I could go online to my account where I have set up the security, three security questions and so on, and answer the various security protocols, submit a request, and it would be mailed to me at the address on record.

I'd like to point out that enrolled agents, CPAs and attorneys are all professional individuals who have made a substantial investment in both obtaining a professional license and maintaining it on an annual basis. We are known to our various licensing agencies, and we have often been the subject, depending on the agency, of criminal background checks and even fingerprinting. In the case of enrolled agents, we've been vetted by the IRS itself. So if the IRS does not have confidence in letting us have access to the information, they're saying they don't have confidence in their own vetting process.

Furthermore, we know our clients personally, usually through many years of working with the same client, sometimes decades. As a result, we also have access to a substantial amount of financial detail. This is a resource that the IRS could be using to quickly identify who is the real John Walker or Lori or Bill or Joe or Susie, and they're not doing it. Instead, taxpayers are being told that once they file an identity theft affidavit, that it may take six months to a year before the IRS does its own investigation. That seems totally unnecessary.

Furthermore, I think the delay is absurd because in far less time you can get a passport. In four to six weeks, the State Department can determine with a high degree of certainty, even in this post-9/11 era, who somebody's identity is. And if they need to expedite it, they can do it in two or three weeks.

In the case of tax-related identity theft, one very obvious and I think simple solution to establish who is the real individual would be to ask them to show up at an IRS office and present their passport. And if they don't have a passport, they can get one in less time than the IRS conducts those investigations. The length of that investigation frustrates our clients terribly because they hear nothing for months, and they wonder if they're going to come back and say, well, we don't believe it's you. Meanwhile, they don't know what else is going on with their financial lives.

There are a number of further examples I can give you, the kinds of difficulties we run into dealing with the IRS, and I have a great deal of respect for everyone at the IRS I deal with. We are professionals. We understand they are dedicated people trying to do a very difficult job.

One case I'm currently working provides some good examples. Chris and Jane Stevens—not their real names—are a couple in their early 60s. They got into financial difficulty because they tried to keep a business running in New Hampshire during a downturn in the economy. They got way over-extended on their mortgages, ended up in a bankruptcy that dragged on for several years, finally came out of bankruptcy last August. Chris, by the way, was identified with inoperable but treatable throat cancer, so he was out of work. His wife continues to work, Jane continues to work.

In February they received a check in the mail from Sunrise Bank in California for \$9,855. The accompanying paperwork explained that this was their 2014 Federal tax refund, which was listed as \$9,945 less \$90 in processing fees. The letter explained that the bank had tried to direct deposit it to the account specified on the return but for some reason was unable to do so, so they mailed them a paper check.

The Stevens' immediately knew this was wrong because we had not even begun to prepare their 2014 return, and they are very honest people. They also knew and were already worried about the fact that their identities had been stolen in the Anthem data breach just a few weeks earlier. So they contacted me and we quickly prepared and filed the identity theft affidavits with the IRS. We have received one communication indicating that they have received the paperwork, and that was filed in February.

Meanwhile, this looked like we had caught it early and we should be able to solve this situation really easily because we had the check, the money was not stolen, it was not gone. I began investigating how the fraudulent funds could be returned to the Treasury, and apparently it's a lot easier to get money out of the Treasury than it is to get it back in.

[Laughter.]

Mr. WALKER. No one had any answers. So I reached out to one of my contacts in the IRS stakeholder liaison, which is a group that interacts extensively with the professional community, for help in answering that question, how do we get the money back in. It actually took her a little over a month to find a door to put the money back in. She got the name and address of an IRS office in Fresno, California where we could send the check. So on April 15th—maybe that was a bad omen—we mailed the check with a cover letter explaining the situation, included all possible identification. Incidentally, much of that was also printed on the check. We mailed it Priority Mail, signature required, and within a few days we received the name, signature, and identity number of the person who signed for it at the IRS office.

We filed their 2014 tax return, which had a balance due, and we thought we were pretty well done. One of the obvious problems in this whole story is this was someone who already had a tax debt. They had a balance due on their 2014 return, and yet somehow somebody imitating them with their stolen identity was able to get \$9,945 shipped out of the U.S. Treasury without ever checking the balance due on that identity number.

The first week of August, the Stevens received a call from a revenue officer in Holtsville, New York. Because I was their representative, I returned the call to Holtsville, spoke with this revenue offi-

cer, and she wanted the Stevens to return the check. That's why she was calling. I explained to her that we had mailed the check back in April and how we'd done it and how we got the address, where we had sent it and so on.

Well, she checked—no sign of it on the system. She didn't believe it had been returned, or if it had been, it had been lost. Her words. There was no record of it. So I said, well, look, I convinced her to let me fax over the same package we had, the cover letter, a copy of the check, all the identification information, the signature of the person who signed for it, postal transcript of every place it went between New Hampshire and California.

I sent that fax within the hour, never heard from her. Two or three days later I called. Her only response was that she hadn't received the fax. She hadn't bothered to call and say she hadn't received the fax, which is something normally one professional would do with another. I work with attorneys and CPAs all the time. If I say I'm going to fax something and I don't, or they say they're going to fax something to me, there's a follow-up call: 'Hey, I didn't get your fax.' Didn't hear anything.

The revenue officer instead shipped the case over to exam with a comment that they could pursue the client for the money, and that was the extent of her involvement with it.

Just a few days later we received a letter, this time from the Kansas City campus. So now we've got California, Holtsville, New York, and Kansas City involved. Kansas City is demanding—this letter demands that the Stevens' either return the check or pay the \$9,855. The letter was dated August 12. They have until September 3rd to do one or the other. We obviously can't return a check we've already returned and that's been lost by the IRS.

So at that point, Jane Stevens and I—and it was necessary for both of us to get involved so the bank could be sure of this—got in touch with Sunrise Bank, their fraud department, and we were able to establish that the check, in fact, had never been cashed, which was fortunate. We also learned that the funds are still in the account at Sunrise Bank, and Sunrise Bank is only too happy to return them. The bank does actually have a process because Sunrise Bank, as many professionals will recognize, is an outfit that processes tax refund third-party products for a lot of software companies. They actually have a process in place to get funds back to the Treasury.

Jane authorized them to proceed with that. It will take at least 15 days to get that, but it does require first that they get cooperation from the IRS and an agreement that they will accept the return of the funds. Then we have the small issue of making sure they get credited to the Stevens' account.

In the meantime, however, the bank's fraud department can't provide us with any written confirmation to explain to Kansas City what actually is happening. That responsibility falls to me.

As I was about to end the conversation with the fraud department, the representative said she had one other thing she had to point out to me. They are required before they return the funds to try again to deposit the funds in the bank account specified by the thief on the fraudulent return. I won't say anything about that.

[Laughter.]

Mr. WALKER. The disturbing part in that, however, is that the IRS has the power to subpoena the bank records and see all it can from that account, see whatever they can learn about it. They also have the power to levy that account and seize those funds before they go back to the thief, by chance, because if they don't get them back, what they are going to do is turn around and in the next few months they will be sending my client notices that they're going to levy their accounts to get the money back.

That's a fairly typical situation that as professionals we have to deal with, and we're frustrated because we are professionals. We are willing to work with the IRS. We have a wealth of information about our clients. It's a resource that's not being put to good use.

Thank you, Senator.

[The prepared statement of Mr. Walker follows:]

Prepared Testimony
for the Record of

John C. Walker, EA

Hearing on

Tax-Related Identity Theft and Fraudulent Tax Returns

Before the

United States Senate
Committee on the Budget

Manchester, NH
August 16, 2015

**Tax-Related Identity Theft
and Fraudulent Tax Returns**

Chairman Enzi, Senator Ayotte, and members of the committee, my name is John Walker, I am an enrolled agent in private practice. I was asked to testify today from the perspective of an enrolled agent and the impact tax-related identity theft and fraudulent tax returns are having on the professional community.

You may be aware, but just to be clear, there are four groups of tax professionals, enrolled agents, CPAs, attorneys, and all others preparers. Generally, enrolled agents, CPAs, and attorneys are authorized under Circular 230 to represent taxpayers before the Internal Revenue Service. There are a few clearly defined special circumstances where someone who is not an enrolled agent, CPA, or attorney may represent an individual. It is usually one of those three tax professionals to whom taxpayers turn for help when they are a victim of tax-related identity theft. Yet we are the portion of the professional community who have been most adversely impacted by tax-related identity theft. So it is with regard to that group of professionals—those regularly representing taxpayers—that I am focusing my remarks.

To put my remarks in some perspective as reflective of the professional community, I will summarize my background. I became an Enrolled Agent in 2004. Prior to that I had a thirty year career in information technology management in manufacturing companies. Since becoming an Enrolled Agent I have been a member of the National Association of Enrolled Agents (NAEA), the National Association of Tax Professionals (NATP), the National Society of Accountants (NSA), and a board member of the New Hampshire chapter of NSA (NHSA). Every month I participate in an IMRS¹ telephone conference with anywhere from 15 to over 30 other tax professionals from all over New England and New York, members of IRS stakeholder liaison, and occasionally IRS operations managers. The purpose of the conference is to discuss systemic problems identified on a national or regional level, raise new issues, learn what is being done to resolve them, and suggest solutions from the professional community. Twice a year we hold practitioner liaison meetings where two dozen tax professionals from New Hampshire meet for half a day with IRS regional and occasionally national managers. The purpose of these liaison meetings is to have in-depth and free exchange of ideas, problems, and solutions. It is from this background of interaction with other tax professionals that I am speaking.

As tax-related identity theft has escalated so have the complaints I hear over, and over, again from professionals trying to help clients who are victims of tax-related identity theft.

In its haste to respond to the explosion in fraudulent returns, the IRS has severely restricted or blocked entirely access to taxpayer information by enrolled agents, CPAs, and attorneys. Restricting representative access to information renders the taxpayer's right to proper representation meaningless.

This is happening even when the taxpayer has engaged us to assist in resolving the tax-related identity theft and named Identity Theft as a tax matter on the power of attorney. To make matters worse, I'm now hearing the same problem voiced by other tax professionals handling cases where identity theft is not a known part of the problem.

Instead of working with the professional community to speed resolution of these cases, the IRS has made it increasingly difficult, and sometimes impossible, to help our clients.

¹ IMRS is the IRS acronym for their Issue Management Resolution System, an electronic system for gathering information about and tracking resolution of problems encountered with IRS systems and procedures.

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Furthermore, a taxpayer who has been the victim of identity theft is still expected to comply with all other aspects of the tax code—timely file their tax returns, pay their taxes, make estimated tax payments, continue installment payments, and fulfill any obligations agreed to as part of an offer in compromise. To assist a taxpayer with any problems arising with those other compliance matters, as well as to assist directly in resolving the identity theft, we as tax professionals representing the taxpayer still need access to all the same information we would have if the identity theft had not occurred.

Normally a representative would have online access to a client's tax information using a professional tool provided by the IRS. This tool differs dramatically from the Get Transcript function that posed a problem earlier this year. It would not be helpful to go into the technical differences on a public record, but it is more secure. It is similar to the kinds of systems many of us rely on to manage our personal bank accounts, utility payments, credit card accounts, insurance, student records, and the like.

Unfortunately, a representative's online access is now blocked for any taxpayer where an ID theft has been reported, and in some cases, it is blocked where ID theft is simply suspected, or might be possible. This delays or stops the tax professional from assisting the victim in determining what happened, and when. It is also causing serious delays in resolving even some of the most routine tax matters, and in tax years unaffected by the year in which the fraudulent return was filed.

What makes this all the more frustrating for taxpayers and representatives is that, a taxpayer or representative, or someone posing as either, can call IRS customer service, then sit on hold for an hour or two. When their call is finally answered a customer service agent will read, mail, or fax the same information to the caller.

Even in those cases where a customer service agent asks a representative to fax over their power of attorney, this process is absurd. For it bypasses the individual electronic keys a representative must have to obtain information online. Those keys are unique to that representative and known only to that representative.

Thus, the same information that a representative could have obtained on their own in five or ten minutes, now consumes hours of Service and professional time to produce. This is a serious waste of Service telephone and human resources, as well as professional resources, and it is a completely misguided sense of improving security.

One specific suggestion I can offer is that the IRS should be doing exactly the opposite. Insist that any representative who needs to obtain copies of IRS records must go through the process of registering and being validated to use the online tool to get them. Require representatives use the online tool, and stop releasing information with telephone requests.

I'll give you a parallel example. Recently I needed a copy of an older statement for my personal bank account, one that was no longer available online. There were only two ways I could obtain a copy, show up at a bank branch with photo ID and they would print it there, or log into my online account, answer several security questions, then submit the request electronically and it would be mailed to the address currently on record. What the IRS is currently doing is the equivalent of any one of you being able to obtain a copy of my bank statement simply by calling and giving my account number which you obtained from a discarded deposit slip or a check I once wrote.

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Enrolled agents, CPAs, and attorneys are individuals who have made a substantial investment in obtaining and maintaining a professional license. We are known to and have been vetted by our respective licensing authorities, often including a criminal background check and fingerprinting. We know our clients personally, usually for many years and sometimes for decades. We know the details of our client's financial history. We have more information in our files about our clients than the IRS has; we have to have it to substantiate the returns we prepare. We could easily provide information to help the IRS quickly and efficiently to establish who the real taxpayer is, and separate the return that is real from the one that is fraudulent. Instead, the IRS is telling ID theft victims it will take six months to a year while the IRS investigates to identify who is the real taxpayer. Meanwhile, the taxpayer is left in limbo for a grossly unreasonable length of time struggling to put their financial life back together.

This delay is all the more absurd when you consider that even in this post 9/11 era the Department of State can determine the true identity of an individual with a sufficiently high degree of confidence to issue them a United States passport in just four to six weeks. If you expedite it, a passport can be issued in two to three weeks. Furthermore, the State Department does it without the benefit of the detailed financial history the tax professional community could bring to the process of identifying the correct tax return. If the Department of State can move that quickly, why can't the IRS do it?

In a case of tax-related ID theft the first priority the IRS should pursue is to establish the identity of the true taxpayer. Why not take the very simple and obvious step of telling the taxpayer to go to a local IRS office and present their passport? It has the taxpayer's photo, full name, place of birth, and date of birth. If the taxpayer doesn't have a passport they can get one in far less time than it takes the IRS to even get its investigation off the ground. If necessary, their identity can be further substantiated with details of their financial history from their tax professional.

Once the identity of the correct taxpayer is established, the IRS can issue the taxpayer unique PINs for their returns. The victim and the IRS can move forward saving a vast amount of time and resources for the Service and suffering for the victim.

Several further examples of the difficulties the professional community experiences in trying to work with the IRS on tax-related identity theft can be found in the events that have occurred in a case I am currently working.

Chris and Jane Stevens (not their real names) are a New Hampshire couple in their early 60s. Chris and Jane got in serious financial difficulty after getting over extended on their mortgages, using the money to try to keep a small company alive during the failing economy and manufacturing jobs in New Hampshire. The Stevens ended up in bankruptcy it drag on for several years until their bankruptcy plan was finally accepted last August. 2014.

In late February 2015 they received a check in the mail from Sunrise Bank in California in the amount of \$9,855. The accompanying paperwork explained that it was for their 2014 federal tax refund of \$9,945 less \$90 for a tax preparation services and bank fees. The letter went on to explain that the bank was unsuccessful in direct depositing the refund to the bank account specified on the return and therefore was mailing a paper check.

The Stevens immediately knew that something was wrong because we had not yet even begun to prepare their 2014 return. They also knew that their identities had been among those

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stolen in the Anthem data breach which had occurred earlier that month. Jane quickly called me and we prepared the necessary Identity Theft Affidavits and filed them with the IRS.

I began investigating how the fraudulent funds could be returned successfully to the U. S. Treasury and properly credited to the Stevens' account. I reached out to one of my contacts in IRS Stakeholder Liaison for help in answering this question. After about a month of research she was successful in locating the name and address of an IRS office in Fresno, California where we could send the check.

On April 15, 2015 we mailed the check with a cover letter explaining the situation and including all possible identification information. It was sent via USPS Priority Mail with signature confirmation. Within a few days we received the name, signature and ID number of the person who signed for it. We also timely filed the Stevens 2014 return following the special instructions for paper filing returns where ID theft has been reported.

It is worth noting in this case that the total tax withheld from the Stevens wages was nowhere near \$9,945. They actually have a balance due on their 2014 return. Further, they have a substantial tax debt that survived their bankruptcy. Any 2014 refund, whether real or fraudulent, should have been stopped and offset against that tax debt. In this case, the tax refund system failed opportunities to protect Treasury interests.

In the first week of August 2015 the Stevens received a call from a revenue officer in Holtsville, New York. I returned the call on their behalf and learned from the revenue officer she wanted the Stevens to return the check. I explained to her that the check had been sent to California in April as instructed, and had been signed for by the IRS. She insisted that it had never been returned, or if it was, it had been lost, and there was no record of it in the system. After further debate she agreed to let me fax over copies of everything that have been sent to California and the signature confirmation of its receipt. The fax was sent within the hour and the success of the fax transmittal confirmed.

I find it odd that the revenue officer specifically asked for return of the physical check, not repayment of an erroneous refund. She had to have had some reason to know the check had not been cashed and to think that after six months the Stevens were simply sitting on a \$9,855 check.

Two or three days later I called the revenue officer to follow up. She claimed she never received the fax so she had sent the case to exam so they could pursue my client for the money. That was the extent of that revenue officer's willingness to work the case assigned to her and help resolve the taxpayers' problem.

A few days later the Stevens received a letter, this time from the Kansas City campus, demanding they either return the check or pay the \$9,855 by September 3, 2015.

Since then Jane Stevens and I have both spoken with the fraud department at Sunrise Bank. We have learned the check was never cashed. After returning the check to California it was either lost or the IRS simply did nothing with it; the IRS never contacted the bank.

We also learned the funds are still in the account at Sunrise Bank. The bank has a process to return unclaimed funds to the IRS but it will take at least 15 days and requires cooperation from the IRS to accept the return of funds. On Jane's request the bank has begun that process but it will not be completed by September 3, 2015, nor in the interim can the bank provide us with any written confirmation that they are in fact attempting to do that.

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However, there is one bizarre twist to the return process that the bank warned me about. Before they can return the funds to the IRS, the bank is required to try again to deposit them to the bank account designated by the thief on the fraudulent return. If that second attempt is successful the money will be gone.

The IRS does have authority to subpoena bank records and investigate that account and the authority to levy the funds in that account. The fraud department told me they would cooperate fully with the IRS but it is the responsibility of the IRS to initiate either or both actions.

This case is ongoing and I remain optimistic it will be resolved successfully. From the events that have occurred so far it is clear that neither the taxpayers nor I have received any help, guidance, or cooperation from any of the IRS operating groups who are supposed to be addressing tax-related identity theft. The only real help we received came from a very dedicated individual in IRS Stakeholder Liaison and the fraud department at Sunrise Bank.

Senator AYOTTE. Thank you. It's pretty shocking when you hear that's a typical story, what you've done just for these two clients.

I want to thank both of you for your testimony, and I just have a few follow-up questions, and then we'll get to the second panel.

I want to ask you, Ms. Weeks, in terms of what you've been dealing with, how did you first learn that Maddi's Social Security number was actually used in a fraudulent return? What happened to you when you did learn that and tried to call the IRS?

Ms. WEEKS. We were basically kind of given the run-around by each office. I don't think it was necessarily intentional. I really think that everyone we spoke to had no idea where to go next. Specifically because she was a minor and because she had passed away, people didn't know what our next step should be. They were mostly thinking that we were concerned with our return and getting the money, but that was not our primary concern.

We could have easily filed and gotten the return back and then gone through the process, I was told anywhere from six months to a year at that point, to regain Madison's identity, but that was never an option for us. We were not going to let them—not the IRS but the thieves—take from us the last chance we had on paper to say that Madison was our child, that we had two children in our family, in our hearts for the rest of our lives. We are a family of four, but this was the last chance to say on paper that we were a family of four.

So when we called the offices and pretty much everyone said, well, why don't you just file, it can go through, it was just a big run-around. It was impossible to prove that she was ours, but it was super easy for someone to take her away from us. That part didn't make sense to me. I had to provide not only my identifying information with a birth certificate, Social Security card, driver's license, but I also actually had to send over my daughter's death certificate to the IRS to prove that she had passed away, as if I would call and state that my 7-year-old child was gone when she was not. I had to provide multiple copies of that information to multiple agencies.

Senator AYOTTE. Different people.

Ms. WEEKS. Different people within the same agency.

Senator AYOTTE. So you were never assigned one point of contact.

Ms. WEEKS. Never. The only time I was was when I started working with your office and the Tax Advocate's office was assigned to me. Other than that, I just kept getting pushed from one person to the next person to the next person, and online there was very little help as well. It wasn't even a resource that says, okay, this has happened to you and these are the steps you need to take. It was all over the board and no one website could give us concrete steps as to your child's identity has been stolen, this is what you need to do next, after this you do this, make sure you keep copies of this.

Like I said, the police department made us feel like we were being kind of silly filing a police report with them. But then speaking with someone in the IRS office, they said, oh, if you hadn't gotten that, we couldn't have moved forward. But even the police department, our tax preparer, none of them were 100 percent sure if

we even needed to do that, but we wanted to cover all of our bases, so we did.

Senator AYOTTE. And I know that, as I understand it, you've heard from other families that have gone through this as well?

Ms. WEEKS. Many.

Senator AYOTTE. Unfortunately.

Ms. WEEKS. Yes. I am a part of several online support groups for grieving families, and when we started going through this, just like I do a lot, I shared on the website what we were going through, and very quickly the page filled up with 'Us too, us too, us too.' And if it wasn't their child, it was their sister's child's identity had been stolen. Multiple friends on Facebook and through personal conversations spoke to me about their family members going through very similar things.

A friend of mine, her cousin passed away several years ago when he was 19 years old, and his identity was stolen, and the IRS refused to correct the fraudulent return because a check had been mailed and the person who stole his identity had cashed it, and they told his parents, his grieving parents, that they couldn't prove that they weren't the ones that received the check and cashed it, so they refused to correct the situation. It's been five years and they are still fighting for their son's identity. It's not about the money for them, just like it wasn't for us. It was about saying that this child is ours and somebody taking that from you.

Senator AYOTTE. Thanks.

Mr. Walker, you had referenced the history of having your professional history and dealing with this, how things have changed. When has this changed? You used to be able to get better access for your clients to be able to help manage their day-to-day tax issues, but also resolve issues. So can you give us some perspective on—

Mr. WALKER. Yes. In the last 18 to 24 months is when we started seeing this freeze come on. When you work a client's issue for multiple years, as I do, you're constantly going back to make sure payments have been made and applied to the right year and so on. So you need that access to see those records.

Senator AYOTTE. And how has the response time been, as someone who is a professional? You talked about an hour or two trying to get through. Has that been your historical experience, or do you think that—

Mr. WALKER. Phone service has always been time-consuming. There are certain times of the day, if you time it carefully, you can get through faster than others, and as a professional you learn when those times are.

One of the problems, of course, with the phone service is that the call gets routed anywhere, all over the country. You're never talking to the same individual, so you don't get the same answer. In fact, you can call as a professional trying to settle a payment plan, and they'll tell you they want the information on a 433A. You call back when you've got that financial information on a 433A and that person says, oh, I only work a 433F, and on it goes.

I had one client who owed money. He made seven calls to try to pay the balance due and find out what he had to do. He got a different story from every collection agent, and then he came to me.

It took me five calls. This was somebody who wanted to pay in full his tax debt in four years, and it was an argument over whether his financial information was going to be on an A, a B, an F, or one of the others. There are five different 433's.

Senator AYOTTE. And how do you think we could resolve that? It sounds like getting back to allowing professionals to have tools that they've had in the past to communicate on behalf of their clients, and also more consistency in terms of who you're dealing with when you call, as opposed to being bounced around?

Mr. WALKER. Yes. There should be, when you're working these cases, it would make sense to have one point of contact.

Senator AYOTTE. Assigned to you.

Mr. WALKER. Yes. It would speed things up. If we had access to the online tools, the thing is we have the knowledge and the experience to read those transcripts, to know what's going on, to do the investigation. So when we call we're not saying, hey, we've got this problem. We're calling saying the estimated tax payments for 2013 were applied to 2008 and they shouldn't have been, that's supposed to be these payments. We call with solutions.

Senator AYOTTE. Well, I want to thank both of you for taking the time to be here today to testify before this committee. It's very important to hear the perspective of what are the difficulties that taxpayers are facing, and I know that there are many of my constituents who are here, who have written me, who have experienced, unfortunately, similar situations where they feel that they've gotten the run-around.

So I want to thank both of you for being here, and I'm going to call the second panel up, and I'm glad that our second panel certainly were able to be present and hear directly your experiences because they're in a position where, hopefully, they can address these concerns. So thank you both very much for spending the time here.

Ms. WEEKS. Thank you for this opportunity.

Senator AYOTTE. Thank you.

Mr. WALKER. Thank you, Senator.

Senator AYOTTE. Appreciate it.

[Pause.]

Senator AYOTTE. I want to thank you for being here today, and I appreciate that you had the opportunity to hear from Ms. Weeks and Mr. Walker and hear the experiences that they've had with identity theft, either themselves, unfortunately, or on behalf of their clients.

First I would like to welcome the IRS Commissioner, John Koskinen, as well as the Treasury Inspector General, J. Russell George, for Tax Administration for the Department of the Treasury, and Mr. Christopher Lee, a Senior Attorney Adviser for the National Taxpayer Advocate Service, and thank all of you for being here today.

I would ask you, I know we have your written testimony, and certainly you can summarize that if you'd like to.

So I would ask the Commissioner of the IRS to offer his testimony first.

Mr. Koskinen.

**STATEMENT OF HONORABLE JOHN A. KOSKINEN,
COMMISSIONER, INTERNAL REVENUE SERVICE**

Mr. KOSKINEN. Thank you, Senator Ayotte. Thanks for the opportunity to discuss the IRS' efforts to combat stolen identity refund fraud and to protect taxpayer information from cyber-security threats.

Securing our systems and protecting taxpayer information is a top priority for the IRS. Over the past few years we have devoted as much time and attention to this challenge as possible, even with our constrained resources. Since 2010, we have increased our dedicated spending in this area from just over \$20 million to \$430 million, and we've been making steady progress both in terms of protecting against fraudulent refund claims and prosecuting those who engage in this crime.

Thanks to the work of our Criminal Investigation Division, over 2,000 individuals have been convicted on Federal charges related to refund fraud involving identity theft, over the past few years. We currently have about 1,700 open investigations being worked by more than 400 IRS criminal investigators. And since 2013, we have initiated more than three dozen cases that involve one or more victims who are New Hampshire residents.

The total number of identity theft-related convictions and open investigations is actually larger than what I just described, when you factor in the important work being done by law enforcement agencies at the state and local level, in New Hampshire and around the country. The IRS works in close collaboration with those agencies.

During calendar year 2014, the IRS protected more than \$15 billion in refunds, including those related to identity theft. We continue to improve our efforts at stopping fraudulent refunds from going out the door. For example, we have improved our processing filters, allowing us this year to suspend about 3.2 million suspicious returns and hold them for further review, an increase of over 500,000 from the year before.

And we continue to help taxpayers who have been victims of identity theft. The IRS has 3,000 people working directly on identity theft-related cases, and we've trained more than 35,000 employees who regularly work with taxpayers so that these employees have the tools to help with identity theft situations when they arise.

In addition, we recently completed our efforts to centralize victim assistance with our new Identity Theft Victim Assistance Organization. This has allowed us to consolidate work being done by four different parts of the IRS into one business operating division. It's also important to note that we provide taxpayers, victimized by identity theft with a single point of contact at the IRS via a special toll-free telephone line. Taxpayers who become identity theft victims in 2015 can expect to have their situation resolved in less than 120 days, far more quickly than in previous years when cases could take over 300 days to resolve. I am a little concerned about references made to six months or longer to resolve those cases. That's not our experience overall.

While this marks a significant improvement, we are continuing to work to find ways to shorten this time and ease the burden iden-

tity theft places on these victims. In 2014, the IRS worked with victims to resolve and close approximately 826,000 cases of identity theft.

While the IRS has improved its ability to stop individuals from perpetrating stolen identity refund fraud, we continue to see an increase in organized crime syndicates around the world engaging in these crimes. These cyber-criminals have been able to gather significant amounts of personal information as a result of data breaches at sources outside the IRS, which makes protecting taxpayers increasingly challenging and difficult.

A good illustration of this problem is the unauthorized attempts to gain access to our Get Transcript application earlier this year. In this instance, the criminals already had accumulated large amounts of stolen taxpayer information from other sources which allowed them in some cases to access individual prior year tax returns. We shut down the Get Transcript application and it will remain disabled until we make modifications and further strengthen security for this application.

To improve our efforts against this complex and evolving threat, the IRS held an unprecedented sit-down meeting in March with the leaders of the electronic tax industry, the software industry, and state tax administrators. All of us agreed to leverage this public-private partnership to help battle stolen identity refund fraud. Motivating us was the understanding that no single organization can fight this type of fraud alone. We spent 12 weeks studying what needed to be done, and in June we announced new steps to provide stronger protections for taxpayers and the nation's tax system. The critical point for taxpayers to understand is that new protections will be in place by the time they have to file tax returns in 2016.

The result is that the Federal Government, states and private industry will stop more fraud related to identity theft up-front, and to the extent fraudulent returns do get through, we will have better post-filing analytics to determine ways to adjust our security filters. We will also continue to enhance our methods of tracking down the criminals and add to those 2,000 individuals already serving jail time for Federal tax-related identity theft.

Going forward, the IRS and its partners will continue collaborating to address longer-term issues and build lasting changes.

Congress, as you note, has an important role to play in the fight against stolen identity refund fraud. Adequate funding for the IRS is critical. Congress can also help by passing several legislative proposals. One of the most important of these would accelerate the due dates of third-party information returns such as W-2's that would allow us to match these documents against income tax returns earlier in the tax-filing process, and would help us more quickly spot errors and detect potential fraud.

Senator Ayotte, this concludes my statement. I'd be happy to take questions.

[The prepared statement of Mr. Koskinen follows:]

**WRITTEN TESTIMONY OF
JOHN A. KOSKINEN
COMMISSIONER
INTERNAL REVENUE SERVICE
BEFORE THE
SENATE BUDGET COMMITTEE
ON IDENTITY THEFT AND REFUND FRAUD
AUGUST 26, 2015**

Senator Ayotte and members of the Committee, thank you for the opportunity to discuss the IRS' efforts to combat stolen identity refund fraud and protect taxpayer information from cybersecurity threats.

Securing our systems and protecting taxpayers' information is a top priority for the IRS. Even with our constrained resources, which are a result of cuts to our budget totaling \$1.2 billion since fiscal year 2010, we continue to devote significant time and attention to this challenge. Last fiscal year the IRS committed over \$430 million – a 20-fold increase over a span of five years – to fight refund fraud. It is clear, however, that criminals have been able to gather significant amounts of personal information as the result of data breaches at sources outside the IRS, which makes protecting taxpayers increasingly challenging and difficult.

The problem of personal data being used to file fraudulent tax returns and illegally obtain refunds exploded from 2010 to 2012, and for a time overwhelmed law enforcement and the IRS. Since then, we have been making steady progress within our reduced resources, both in terms of protecting against fraudulent refund claims and criminally prosecuting those who engage in this crime. However, we can do much more to protect taxpayers and prosecute criminals with the resources requested in the President's Budget.

Over the past few years, approximately 2,000 individuals have been convicted on federal charges related to refund fraud involving identity theft. More than 400 special agents from the IRS' Criminal Investigation (CI) division continue to conduct tax-related identity theft investigations, with the number of active cases now totaling approximately 1,700. Since 2013, the IRS has initiated more than three dozen cases that involve one or more victims who are New Hampshire residents. The average prison sentence for identity theft-related tax refund fraud grew to 43 months in Fiscal Year (FY) 2014 from 38 months in FY 2013, with the longest sentence being 27 years. We have committed these CI resources despite a 15 percent reduction in the number of special agents from FY 2010 to July 2015.

State and local law enforcement agencies in New Hampshire and around the country also play a critical role in fighting identity theft and bringing identity thieves to justice, and they are pursuing additional investigations and convictions beyond those included above. CI works in close collaboration with its federal law enforcement partners as well as state and local law enforcement to investigate crimes involving tax-related identity theft.

During Calendar Year (CY) 2014, the IRS again protected more than \$15 billion in refunds, including those related to identity theft. We continue to improve our efforts at stopping fraudulent refunds from going out the door. For example, we have improved our processing filters, allowing us this year to suspend about 3.2 million suspicious returns and hold them for further review, an increase of over 500,000 from the year before.

Importantly, the IRS continues to work to help taxpayers who have been victims of identity theft. The IRS has 3,000 people working directly on identity theft-related cases, and we have trained more than 35,000 employees who regularly work with taxpayers, so that these employees have the tools to help with identity theft situations should they arise.

We recently completed our efforts to centralize victim assistance with our new Identity Theft Victim Assistance organization. With this new organization, we have consolidated work being done by four different parts of the IRS into one business operating division. This consolidation will improve consistency, program oversight and strategic direction. It is also important to note that we provide taxpayers victimized by identity theft with a single point of contact at the IRS via a special toll-free telephone line.

Taxpayers who become identity theft victims in 2015 can expect to have their situations resolved in less than 120 days, far more quickly than in previous years, when cases could take over 300 days to resolve. While this marks a significant improvement, we are continuing to work to find ways to shorten this time and ease the burden identity theft places on its victims. In CY 2014, the IRS worked with victims to resolve and close approximately 826,000 cases.

Another way the IRS has been assisting taxpayers is through the issuance of Identity Protection Personal Identification Numbers (IP PIN), which protects returns at the time they are filed. For the 2015 filing season, the IRS issued IP PINs to 1.5 million taxpayers previously identified by the IRS as victims of identity theft. Also during this period, the IRS notified another 1.7 million taxpayers that they were eligible to visit IRS.gov and opt in to the IP PIN program. Additionally, taxpayers living in Florida, Georgia and Washington, D.C. – three areas where there have been particularly high concentrations of stolen identity refund fraud – are eligible to participate in a pilot where they can receive an IP PIN upon request, regardless of whether the IRS has identified them as a victim of identity theft.

Another aspect of our work against stolen identity refund fraud involves communicating with taxpayers about the threat posed by identity theft generally, and explaining the steps they can take to protect their personal information and decrease their chances of becoming victimized – everything from changing passwords periodically to checking their credit report annually and using anti-spam software on their personal computers.

But even though the IRS has improved its ability to stop individuals from perpetrating stolen identity refund fraud, we continue to see an increase in organized crime syndicates engaging in these crimes. The IRS is working closely with law enforcement agencies in the U.S. and around the world to prosecute these criminals and protect taxpayers.

The fact remains, however, that these cyber criminals are using increasingly sophisticated means to steal personal information from a variety of sources, and gain access to even more sensitive data than in the past. A good illustration of this problem is the unauthorized attempts to gain access to our Get Transcript application earlier this year. In regard to these attempts, the criminals had already accumulated significant amounts of stolen taxpayer information from other sources, which allowed them, in some cases, to access individuals' prior-year tax returns. We shut down the Get Transcript application, and it will remain disabled until we make modifications and further strengthen security for this application, including by enhancing taxpayer-identity authentication protocols.

To improve our efforts against this complex and evolving threat, the IRS held a sit-down meeting in March with the leaders of the electronic tax industry, the software industry and the states. We agreed to build on our cooperative efforts of the past and find new ways to leverage our public-private partnership to help battle stolen identity refund fraud. Motivating us was the understanding that no single organization can fight this type of fraud alone.

We spent 12 weeks studying what needed to be done, and in June we announced an initial set of new steps to provide stronger protections for taxpayers and the nation's tax system. The steps we agreed to take together represent a new era of cooperation and collaboration between the IRS, the states and our industry partners. For example, IRS partners agreed to expand sharing of fraud leads and to develop stronger methods of authenticating taxpayers when they file their returns. They also agreed to do more to inform taxpayers and raise awareness about the protection of sensitive personal, tax and financial information. Additionally, tax industry members agreed to align with the IRS and states under the National Institute of Standards and Technology (NIST) cybersecurity framework to promote the protection of information technology infrastructure.

The critical point for taxpayers and practitioners to understand is that new protections will be in place by the time they have to file tax returns in 2016. We and our partners will all be making substantive changes through the summer and fall to be ready for the next tax season, and our combined efforts here will better prepare all of us for 2016 and beyond.

This means that the federal government, states and private industry will stop more fraud related to identity theft up front. We will catch more fraud in the IRS security filters during tax processing. And to the extent fraudulent returns do get through, we will have better post-filing analytics to determine ways to adjust our security filters. We will also improve our methods of tracking down the criminals, and add to those approximately 2,000 individuals already serving jail time for federal tax-related identity theft.

Our efforts will also include ensuring that authentication protocols become more sophisticated, moving beyond information that used to be known only to individuals but now, in many cases, is readily available to criminal organizations from various sources. We must balance the strongest possible authentication processes with the ability of taxpayers to legitimately access their data and use IRS services online. The challenge will always be to keep up with, if not get ahead of, criminal syndicates that continue to devote significant amounts of time and resources to victimizing taxpayers.

It should be noted that the collaborative efforts I have described will not end with the actions underway to prepare for the upcoming filing season. The IRS and its partners will continue to work together to address longer-term issues facing the tax community and taxpayers in the efforts against stolen identity refund fraud. We want to ensure that we make lasting changes. These changes are being built into the DNA of the entire tax system.

Congress plays an important role in the fight against stolen identity refund fraud. Congressional approval of the President's FY 2016 Budget request for the IRS is critical. The request includes \$140 million in base cybersecurity funding with an additional \$101 million for two new initiatives specifically devoted to cybersecurity, identity theft, and refund fraud. An additional \$180 million for cyber and identity theft-related critical information technology infrastructure, enhanced enforcement, and secure service options is also included. It is important to note that while the IRS' enacted information technology budget has decreased by 9 percent since FY 2010, private sector investment in cybersecurity is increasing rapidly.

Another way Congress can help in this fight is by passing several important legislative proposals in the President's FY 2016 Budget proposal, including the following:

- ***Acceleration of information return filing due dates.*** Under current law, most information returns, including Forms 1099 and 1098, must be filed with the IRS by February 28 of the year following the year for which the information is being reported, while Form W-2 must be filed with the Social Security Administration (SSA) by the last day of February. The due date for filing information returns with the IRS or SSA is generally extended until March 31 if the returns are filed electronically. The Budget proposal would require these information returns to be filed earlier, which would assist the IRS in identifying fraudulent returns and reduce refund fraud, including refund fraud related to identity theft.
- ***Correctible error authority.*** The IRS has authority in limited circumstances to identify certain computation or other irregularities on returns and automatically adjust the return for a taxpayer, colloquially known as “math error authority.” At various times, Congress has expanded this limited authority on a case-by-case basis to cover specific, newly enacted tax code amendments. The IRS would be able to significantly improve tax administration – including reducing improper payments and cutting down on the need for costly audits – if Congress were to enact the Administration’s proposal to replace the existing specific grants of this authority with more general authority covering computation errors and incorrect use of IRS tables. Congress could also help in this regard by creating a new category of “correctible errors,” allowing the IRS to fix errors in several specific situations, such as when a taxpayer’s information does not match the data in certain government databases.
- ***Authority to require minimum standards for return preparers.*** In the wake of court decisions striking down the IRS’ authority to regulate unenrolled and unlicensed paid tax return preparers, Congress should enact the Administration’s proposal to provide the agency with explicit authority to require all paid preparers to have a minimum knowledge of the tax code. Requiring all paid preparers to keep up with changes in the Code would help promote high quality services from tax return preparers, improve voluntary compliance, and foster taxpayer confidence in the fairness of the tax system. It would allow the IRS to focus resources on the truly fraudulent returns.
- ***Expanded access to National Directory of New Hires.*** Under current law, the IRS is permitted to access the Department of Health and Human Services’ National Directory of New Hires for purposes of enforcing the Earned Income Tax Credit and verifying employment reported on a tax return. The proposal would allow IRS access to the directory for broader tax administration purposes, which could assist the agency in preventing stolen identity refund fraud.

There are a number of other legislative proposals in the Administration's FY 2016 Budget that would also assist the IRS in its efforts to combat identity theft, including: giving Treasury and the IRS authority to require or permit employers to mask a portion of an employee's SSN on W-2s, which would make it more difficult for identity thieves to steal SSNs; adding tax-related offenses to the list of crimes in the Aggravated Identity Theft Statute, which would subject criminals convicted of tax-related identity theft crimes to longer sentences than those that apply under current law; and adding a \$5,000 civil penalty to the Internal Revenue Code for tax-related identity theft cases, to provide an additional enforcement tool that could be used in conjunction with criminal prosecutions.

Senator Ayotte, this concludes my statement. I would be happy to take questions.

Senator AYOTTE. Thank you, Commissioner.

We will now hear from the Treasury Inspector General, J. Russell George, for the Tax Administration Department of the Treasury.

STATEMENT OF HONORABLE J. RUSSELL GEORGE, INSPECTOR GENERAL FOR TAX ADMINISTRATION DEPARTMENT OF THE TREASURY

Mr. GEORGE. Thank you, Senator Ayotte, for hosting this hearing and the opportunity to provide testimony on the important subject of identity theft and the impact it has on both the Internal Revenue Service and taxpayers.

The Treasury Inspector General for Tax Administration, or TIGTA, has provided ongoing oversight and testimony on tax fraud-related identity theft. Our audit work shows that while the IRS is making progress in detecting and resolving identity theft and assisting victims, improvements are still needed.

My comments today will focus on the results of our prior audit work and our ongoing work to assess the IRS' progress on this issue.

The IRS continues to make progress on both preventing fraudulent tax returns from entering the tax processing system and on detecting fraudulent tax returns during processing. The IRS reported that in processing year 2014, and that's when they consider the tax returns from 2013, it detected and prevented over \$24 billion in identity theft refund fraud.

The IRS continues to expand the number of filters used to detect identity theft refund fraud at the time tax returns are processed. For example, the IRS increased the number of filters from 80 filters during processing year 2013 to 114 filters during processing year 2014. As of September 30th, 2014, these filters were used to detect over 830,000 tax returns and prevented the issuance of over \$5 billion in fraudulent tax refunds.

TIGTA has previously identified large volumes of undetected potentially fraudulent tax returns with tax refunds issued to the same addresses or deposited into the same bank accounts. In response, the IRS developed and implemented a clustering filter. Using this tool, the IRS reported that as of early October 2014, it had identified approximately 517,000 tax returns and prevented the issuance of over \$3 billion in fraudulent tax refunds.

In addition, beginning with the 2015 filing season, the IRS implemented restrictions to limit the number of deposits to a single bank account. TIGTA is currently evaluating whether this is working as intended.

Notwithstanding improvements in its detection efforts, access to third-party information, both income and withholding, is the key to enabling the IRS to prevent the continued issuance of billions of dollars in fraudulent tax refunds. Most of the third-party income and withholding information is not received by the IRS until well after tax return filing season begins. So, for example, the annual deadline for filing most information returns—we're talking about the W-2s and the 1099s—with the IRS is March 31st. Yet taxpayers can begin filing their tax returns as early as mid-January each year. For the 2014 filing season, the IRS had received over 90

million tax returns as of March 28th, 2014. Legislation would be needed to accelerate the filing of the information returns.

One practice that is designed to protect taxpayers from being victimized again the following year is the issuance of identity protection personal identification numbers. However, TIGTA reported in September 2014 that over 530,000 eligible taxpayers were not provided these numbers as required. Additionally, we have previously reported that identity theft victims experienced long delays in resolving their tax accounts. We found that in Fiscal Year 2013, the IRS took an average of 278 days to resolve the tax accounts. Our review also identified that the IRS made errors on the tax accounts of victims of identity theft, resulting in delayed refunds and requiring the IRS to reopen cases and take additional actions to resolve the errors.

Recently, the IRS announced that unauthorized users were successful in obtaining access to over 350,000 taxpayer accounts using its Get Transcript application. The IRS believes that some of this information may have been gathered to file fraudulent returns during the upcoming 2016 filing season. TIGTA continues to investigate this incident, coordinating with other Federal law enforcement agencies. TIGTA has an audit ongoing to evaluate the IRS' assistance provided to victims of the Get Transcript data breach.

We at TIGTA, Senator, remain concerned about the ever-increasing attempts to defraud taxpayers through identity theft and other scams. Because of the importance of these issues, we plan to provide continuing audit coverage of the IRS' efforts to prevent tax identity theft and will continue to investigate any instances of attempts to corrupt or otherwise interfere with the nation's system of tax administration.

Senator Ayotte, thank you for the opportunity to provide an update on our work on this critical tax administration issue and to share my views.

[The prepared statement of Mr. George follows:]

**HEARING BEFORE THE
COMMITTEE ON THE BUDGET
UNITED STATES SENATE**

"Identity Theft"



**Testimony of
The Honorable J. Russell George
Treasury Inspector General for Tax Administration**

August 26, 2015

Manchester, NH

TESTIMONY
OF
THE HONORABLE J. RUSSELL GEORGE
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION
before the
COMMITTEE ON THE BUDGET
UNITED STATES SENATE

"Identity Theft"

August 26, 2015

Senator Ayotte, thank you for hosting this hearing and the opportunity to provide testimony on the important subject of identity theft and its impact on the Internal Revenue Service (IRS) and taxpayers.

The Treasury Inspector General for Tax Administration, also known as "TIGTA," is statutorily mandated to provide independent audit and investigative services necessary to improve the economy, efficiency, and effectiveness of the Federal system of tax administration. TIGTA's oversight activities are designed to identify high-risk systemic inefficiencies in IRS operations and to investigate exploited weaknesses in tax administration. TIGTA's role is critical in that we provide the American taxpayer with assurance that the approximately 87,000¹ IRS employees, who collected over \$3.1 trillion in tax revenue, processed over 242 million tax returns and other forms, and issued \$374 billion in tax refunds² during Fiscal Year (FY) 2014, perform their duties in an effective and efficient manner while minimizing the risks of waste, fraud, or abuse.

TIGTA has provided ongoing oversight and testimony on the issue of tax fraud-related identity theft because of the adverse effect on both the victims of this crime and the IRS. Identity theft affects the IRS and tax administration in two ways – fraudulent tax returns and misreporting of income. The IRS has described identity theft as one of its "Dirty Dozen" tax scams and continues to take steps to more effectively detect and prevent the issuance of fraudulent refunds resulting from identity theft tax return filings. Our ongoing audit work shows that while the IRS is making progress in detecting and resolving identity theft issues and providing victim assistance, improvements are still needed.

¹ Total IRS staffing as of July 25, 2015. Included in the total are approximately 16,500 seasonal and part-time employees.

² IRS, *Management's Discussion & Analysis, Fiscal Year 2014*, page 2.

Since May 2012, my office has issued numerous reports that address the IRS's efforts to detect and prevent the filing of fraudulent tax returns by identity thieves, as well as IRS efforts to assist victims. My comments today will focus on the results of those reports and on our ongoing work to assess the IRS's progress in detecting and resolving identity theft issues related to tax administration.

DETECTION AND PREVENTION OF IDENTITY THEFT

In July 2012,³ TIGTA issued its first report on our assessment of IRS efforts to detect and prevent fraudulent tax refunds resulting from identity theft. We reported that the impact of identity theft on tax administration is significantly greater than the amount the IRS detects and prevents. For example, our analysis of Tax Year (TY) 2010 tax returns identified approximately 1.5 million undetected tax returns with potentially fraudulent tax refunds totaling in excess of \$5.2 billion that had the characteristics of identity theft confirmed by the IRS.

We have continued to perform follow-up reviews evaluating the IRS's efforts to improve detection processes, including its implementing TIGTA recommendations. Most recently,⁴ we reported in April 2015 that the IRS continues to make improvements in its identification of identity theft tax returns at the time the returns are processed and before fraudulent tax refunds are released. For example, the IRS reported that in the 2013 Filing Season it detected and prevented approximately \$24.3 billion in identity theft refund fraud. These efforts include locking the tax accounts of deceased individuals to prevent others from filing a tax return using their name and Social Security Number (SSN). The IRS locked approximately 26.3 million taxpayer accounts between January 2011 and December 31, 2014. These locks prevent fraudulent tax returns from entering the tax processing system. For Processing Year 2014,⁵ the IRS rejected 338,807 e-filed tax returns and stopped 15,915 paper-filed tax returns through the use of these locks as of September 30, 2014.

The IRS also continues to expand the number of filters used to detect identity theft refund fraud at the time tax returns are processed. For example, the IRS increased the number of filters from 80 filters during Processing Year 2013 to 114 filters during Processing Year 2014. The identity theft filters incorporate criteria based on

³ TIGTA, Ref. No. 2012-42-080, *There Are Billions of Dollars in Undetected Tax Refund Fraud Resulting From Identity Theft* (July 2012).

⁴ TIGTA, Ref. No. 2015-40-026, *Efforts Are Resulting in the Improved Identification of Fraudulent Tax Returns Involving Identity Theft* (Apr. 2015).

⁵ A processing year is the calendar year in which tax returns are processed by the Internal Revenue Service.

characteristics of confirmed identity theft tax returns. Tax returns identified by these filters are held during processing until the IRS can verify the taxpayer's identity. As of September 30, 2014, these filters detected 832,412 tax returns preventing the issuance of approximately \$5.5 billion in fraudulent tax refunds.

In addition to the above actions, the IRS has developed and implemented a clustering filter in response to TIGTA's continued identification of large volumes of undetected potentially fraudulent tax returns with tax refunds issued to the same address or deposited into the same bank account. Using this tool, the IRS reported that as of October 9, 2014, it had identified 517,316 tax returns and prevented the issuance of approximately \$3.1 billion in fraudulent tax refunds. The IRS has also implemented a systemic restriction to limit the number of deposits (three) to a single bank account beginning with the 2015 Filing Season. TIGTA is evaluating the direct deposit limit as part of our assessment of the IRS's ongoing efforts to detect and prevent identity theft. We expect to issue our report early next fiscal year.⁶

The IRS External Leads Program also assists in the identification and recovery of questionable tax refunds. The program receives leads about questionable tax refunds identified by a variety of partner organizations that include financial institutions, brokerage firms, government and law enforcement agencies, State agencies, tax preparation entities, and others. The program has grown from 10 partner financial institutions and organizations returning \$233 million in questionable tax refunds to the IRS in Calendar Year 2010 to 286 returning more than \$576 million in Calendar Year 2013.

In August 2014, TIGTA reported⁷ that the IRS is not always verifying leads timely; leads are inconsistently tracked in multiple inventory systems; and the inventory systems do not provide key information such as how the lead was resolved, (*i.e.*, refund confirmed as erroneously issued or legitimate).

Notwithstanding improvements in its detection efforts and programs to recover questionable tax refunds that were issued, access to third-party income and withholding information is the key to enabling the IRS to prevent the continued issuance of billions of dollars in fraudulent tax refunds. Most of the third-party income and withholding information is not received by the IRS until well after the tax return filing season begins.

⁶ TIGTA, Audit No. 201440030, *Effectiveness of Identity Theft Filters in the Return Review Program*, report planned for October 2015.

⁷ TIGTA, Ref. No. 2014-40-057, *The External Leads Program Results in the Recovery of Erroneously Issued Tax Refunds, However, Improvements Are Needed to Ensure That Leads Are Timely Verified* (Aug. 2014).

For example, the annual deadline for filing most information returns with the IRS is March 31, yet taxpayers can begin filing their tax returns as early as mid-January each year. For the 2014 Filing Season, the IRS had received approximately 90.8 million tax returns as of March 28, 2014.

Legislation would be needed to accelerate the filing of the information returns. In its Fiscal Year 2015 Revenue Proposal, the IRS again proposed to accelerate the deadline for filing third-party income and withholding information returns and eliminate the extended due date for e-filed information returns. Under this proposal, the information returns would then be required to be filed with the IRS (or the Social Security Administration, in the case of Forms W-2, *Wage and Tax Statement*), by January 31.

The IRS's own analysis estimates that identity thieves were successful in receiving over \$5 billion in fraudulent tax refunds in Filing Season 2013. Addressing this issue will require the continued expenditure of resources that could otherwise be used to respond to taxpayer telephone calls, answer correspondence, and resolve discrepancies on tax returns.

The IRS recognizes that new identity theft patterns are constantly evolving and that, as a result, it needs to continuously adapt its detection and prevention processes. For example, identity theft not only affects individuals, but also businesses. The IRS defines business identity theft as creating, using, or attempting to use businesses' identifying information without authority to claim tax benefits. TIGTA reviewed the effectiveness of the IRS's efforts to implement a business return program to detect and prevent identity theft, and found that the IRS has begun to implement processes to detect identity theft on business returns.⁸

However, TIGTA also found that the IRS does not have systemic processes in place to use data it has readily available to proactively identify potential business identity theft at the time tax returns are processed. For example, the IRS maintains a list of suspicious Employer Identification Numbers (EINs)⁹ determined to be associated with a fictitious business. Our analysis of business returns filed during Processing Year 2014 identified that 233 tax returns were filed using a known suspicious EIN. In addition, TIGTA determined that processing filters could be developed to identify business tax returns containing certain characteristics that could indicate potential

⁸ TIGTA, Audit No. 201440004, *Processes Are Being Established to Detect Business Identity Theft; However, Additional Actions Can Help Improve Detection*, report planned for September 2015.

⁹ An EIN is a Federal Tax Identification Number used to identify a taxpayer's business account.

identity theft cases. For example, the IRS has data to proactively identify business tax returns filed using EINs assigned by the IRS to businesses that are not required to file a tax return as well as those that have no recent tax filing history.

Finally, in June 2015, the IRS unveiled its partnership efforts with representatives of tax preparation and software firms, payroll and tax financial product processors and State tax administrators, representing a sweeping new collaborative effort to combat identity theft refund fraud and protect the Nation's taxpayers. Efforts include identifying new steps to validate taxpayer and tax return information at the time of filing; increasing information sharing between industry and governments; and standardized sharing of suspected identity fraud information and analytics from the tax industry to identify fraud schemes and locate indicators of fraud patterns. For the first time, the tax industry will share aggregated analytical information about their filings with the IRS to help identify fraud.

IRS ASSISTANCE TO VICTIMS OF IDENTITY THEFT

Tax-related identity theft adversely affects the ability of taxpayers to file their tax returns and timely receive their tax refunds, often imposing significant financial and emotional hardships. Many taxpayers learn that they are a victim of tax-related identity theft when they attempt to file their electronic tax return and the IRS rejects it because someone else (an identity thief) already filed a return using the same SSN. The IRS advises the taxpayer to submit a paper tax return with an attached Form 14039, *Identity Theft Affidavit*, or police report. TIGTA has reported that the IRS is not always effectively providing assistance to taxpayers who report that they have been victims of identity theft, resulting in an increased burden for those victims.

To provide relief to victims of identity theft, the IRS began issuing Identity Protection Personal Identification Numbers (IP PIN) to eligible taxpayers in Fiscal Year 2011. Use of an IP PIN provides relief to taxpayers because it allows the IRS to process their tax returns without delay and helps prevent the misuse of taxpayers' SSNs on fraudulent tax returns. However, TIGTA has reported that not all eligible individuals are receiving an IP PIN.¹⁰ Specifically, we reported in September 2014 that the IRS did not provide an IP PIN to 532,637 taxpayers who had an identity theft indicator on their tax account indicating that the IRS resolved their case. The IRS also did not provide an IP PIN to 24,628 taxpayers whose Personally Identifiable Information had been lost by

¹⁰ TIGTA, Ref. No. 2014-40-086, *Identity Protection Personal Identification Numbers Are Not Provided to All Eligible Taxpayers* (Sept. 2014).

or stolen from the IRS.

Additionally, In March 2015, we reported that identity theft victims experienced long delays in resolving their tax accounts in Fiscal Year 2013.¹¹ Our review of a statistically valid sample of 100 identity theft tax accounts resolved by the IRS between October 1, 2012, and September 30, 2013, identified that the IRS took an average of 278 days to resolve the tax accounts. In addition, our review identified that the IRS continues to make errors on the tax accounts of victims of identity theft. For example, of the 100 tax accounts that TIGTA reviewed, the IRS did not correctly resolve 17 accounts (17 percent). Errors result in delayed refunds and require the IRS to reopen cases and take additional actions to resolve the errors. Based on the results of the 100 identity theft tax accounts reviewed, we estimate that of the 267,692 taxpayers whose accounts were resolved during the period October 1, 2012, and September 30, 2013, 25,565 (10 percent) may have been resolved incorrectly, resulting in the issuance of delayed or incorrect refunds. This wastes additional resources needed to resolve the errors and further burdens victims of tax-related identity theft.

As part of the IRS's strategy to reduce taxpayer burden caused by identity theft, it formed the Identity Protection Specialized Unit (IPSU) in October 2008. The IPSU is a dedicated unit that enables victims of identity theft to have their questions answered and issues resolved quickly and effectively. IPSU was originally created with the goal of providing each victim with a dedicated IRS employee to work with each identity theft victim. However, the IRS indicated in November 2014 that budgetary constraints do not allow for a single employee to be assigned to each identity theft victim. The IRS remains committed to continuing to provide victims of identity theft with the centralized IPSU hotline to obtain assistance. The IRS noted that obtaining assistance via contact with the hotline does not depend on the availability of a single IRS representative, who may be unavailable because he or she is performing other casework.

On May 4, 2015, the IRS announced the final phase of its plan to consolidate its identity theft assistance and compliance activities in a new organization called Identity Theft Victim Assistance. The IRS indicated that the new directorate aims to provide consistent treatment to victims of tax-related identity theft. The IRS stated that once the realignment is fully completed, an analysis of all identity theft victim assistance processes, including the IPSU, will be performed. We plan to issue a report in October 2015 of our assessment of whether the IPSU results in a streamlined process to help

¹¹ TIGTA, Ref. No. 2015-40-024, *Victims of Identity Theft Continue to Experience Delays and Errors in Receiving Refunds* (Mar. 2015).

resolve identity theft cases¹² and plan to review the IRS's implementation of the Identity Theft Victim Assistance directorate next fiscal year.

Finally, to assist victims of identity theft who are working with law enforcement to investigate the theft and use of their personally identifiable information to file a fraudulent tax return, the IRS created its Law Enforcement Assistance Program (LEAP). This program assists law enforcement in obtaining tax return information vital to their efforts in investigating and prosecuting cases of tax-related identity theft. Federal law imposes restrictions on sharing taxpayer information, including information that can be shared with State and local law enforcement. State and local law enforcement officials with evidence of identity theft involving fraudulently filed Federal tax returns must obtain permission from the identity theft victim so the IRS can provide law enforcement with limited tax return information relevant to the identity theft. Through the LEAP, victims of identity theft can provide, and State and local law enforcement can obtain, the required permission.

In November 2014, TIGTA reported that LEAP requests for tax information made through this program were not always timely processed or accurately worked and that the IRS did not always maintain documentation of tax return information provided to the law enforcement officers.¹³ We also found that actions are needed to better promote awareness of the LEAP to State and local law enforcement. The IRS has not established an outreach strategy to increase awareness of the LEAP and the benefits the program provides to both the victims of identity theft and law enforcement.

The IRS has also announced it is developing a new process which would give taxpayers online access to view the false tax return that was filed using their SSN. According to the IRS, once the procedures have been finalized, an announcement will be issued to explain the process for receiving a redacted copy of the fraudulent return online to tax-related identity theft victims. As part of TIGTA's ongoing review of the Get Transcript data breach, we have included steps to evaluate the IRS's implementation of this online capability.

Employment-Related Identity Theft

Employment-related identity theft occurs when an identity thief uses a taxpayer's SSN for the purpose of obtaining employment and reporting income. In many cases,

¹² TIGTA, Audit No. 201440024, *Improvements Are Needed in the Identity Protection Specialized Unit to Better Assist Victims of Identity Theft*, report planned for October 2015.

¹³ TIGTA, Ref. No. 2015-40-003, *Law Enforcement Assistance Program Requests Are Not Always Processed Timely and Accurately* (Nov. 2014).

the unsuspecting taxpayers do not realize they are victims of this type of identity theft until they receive a letter or notice from the IRS. The IRS would issue such a correspondence after it found that a taxpayer's SSN was used by someone else for the purpose of reporting income on an income tax return. In some cases, both the SSN and the taxpayer's name are used; in others, only the SSN is used.

In July 2014, the IRS initiated the *Employment Related Identity Theft Notification Project* to notify a test group of taxpayers that their SSNs have been used by someone other than themselves for the purpose of obtaining employment and reporting income.¹⁴ The pilot initiative was conducted in response to a TIGTA audit recommendation to establish a process to notify a taxpayer when there is evidence that the taxpayer's identity (name and SSN) has been compromised. The IRS mailed approximately 25,000 letters to potential victims of employment-related identity theft whose SSNs had been used on a Form W-2, *Wage on Tax Statement*, accompanying a TY 2013 tax return filed by another individual with an Individual Taxpayer Identification Number (ITIN).¹⁵

The letters notified the taxpayers that their SSN was used by another person for employment and described steps the taxpayers could take to prevent further misuse of their personal information. The letters also indicated that the IRS could not disclose the identity of the persons using their SSNs. TIGTA is currently evaluating the design, implementation and results of the IRS's notification pilot initiative. We expect to issue our report in February 2016.¹⁶

OTHER ATTEMPTS TO DEFRAUD TAX ADMINISTRATION ARE INCREASING

The trillions of dollars that flow through the IRS each year and the hundreds of millions of taxpayer data sets it uses and maintains make the IRS an attractive target for criminals who attack the tax administration system for personal gain on a constant basis and in various ways. The scams, and the methods the criminals use to perpetrate them, are constantly changing and require continuous monitoring by the IRS. The IRS annually provides the public with information about what it sees as the "Dirty Dozen" tax scams on its website. These scams range from identity theft to fake charities and

¹⁴ IRS, *Employment Related Identity Theft Notification Project – Technical Project Report and Recommendations*, September 2014.

¹⁵ The IRS created the ITIN to provide Taxpayer Identification Numbers, when needed for tax purposes, to individuals who do not have and are not eligible to obtain an SSN.

¹⁶ TIGTA, Audit No. 201540015, *Assistance to Taxpayers Affected by Employment-Related Identity Theft*, report planned for February 2016.

inflated refund claims. The number one “Dirty Dozen” scam affecting taxpayers in 2015 involved aggressive, threatening phone calls from scam artists. In addition to the scams affecting taxpayers, the IRS suffered a data breach when criminals gained unauthorized access to information on tax accounts through the IRS’s “Get Transcript” application.

Phone Impersonation Scam

The phone impersonation scam has proven to be so large that it is one of TIGTA’s Office of Investigation’s top priorities. It is a surprisingly effective and fast way to steal taxpayers’ money, and in this fast-paced electronic environment, the money can be gone before the victims realize that they have been scammed. The hundreds of thousands of complaints we have received about this scam makes it the largest, most pervasive impersonation scam in the history of our agency. It has claimed thousands of victims with reported losses totaling over \$21.5 million to date.

We first started seeing concentrated reporting of these calls in August 2013. As the number of calls we received continued, we started to specifically track this crime in October 2013. According to the victims, the scam artists made threatening statements and then demanded that the victims immediately put money on prepaid debit cards in order to avoid being arrested. The callers often warned the victims that if they hung up, local police would come to their homes to arrest them. The scammers may also send bogus IRS e-mails to support their scam. Those who fell for the scam withdrew thousands of dollars from their bank accounts and then purchased the prepaid debit cards as instructed by the callers. Once the prepaid debit cards were purchased, the perpetrators instructed the victims to call them back and read them the numbers on the prepaid card. By the time the victims realized they had been scammed, the perpetrators had negotiated the prepaid cards, and the money was gone.

To date, TIGTA has received almost 650,000 reports of these calls. We continue to receive between 9,000 and 12,000 such reports each week. As of August 10, 2015, over 4,200 individuals have been victimized by this scam and they have reported that they have paid a total of over \$21.5 million, an average of approximately \$5,100 per victim. The highest reported loss by one individual was over \$500,000.

The perpetrators do not discriminate; they are calling people everywhere, of all income levels and backgrounds. Based on a review of the complaints we have received, we believe the calls are now being placed from more than one source. This scam is the subject of an ongoing multi-agency investigation. There is much that we are doing to apprehend the perpetrators, but TIGTA is not at liberty to disclose

specifically what is being done as it may impede our ability to successfully bring these criminals to justice. I can tell you that it is a matter of high priority for law enforcement.

However, there is much more that needs to be done, as these examples are part of a broader ring of scam artists operating beyond our borders. This is unfortunately similar to most of the cybercrime we are seeing today – international in nature that utilizes technology (e.g., in the case of the phone fraud scam, the use of Voice over Internet Protocol technology) – and much of it originates from computers outside the United States. The perpetrators use this technology to further deceive their intended victims by, for example, using false telephone numbers that show up on the victim's caller ID systems, making it appear as though the calls are originating from Washington, D.C. or elsewhere in the United States.

Recent IRS Data Breach

On May 26, 2015, the IRS announced that unauthorized access attempts had been made by criminals using taxpayer-specific data to gain access to tax information through the IRS's "Get Transcript" application. As a result of these unauthorized accesses, the IRS deactivated the Get Transcript application on May 21, 2015.

The tax information that can be accessed on the Get Transcript application can include the current and three prior years of tax returns, nine years of tax account information, and wage and income information. To date, the IRS has indicated that unauthorized users were successful¹⁷ in obtaining access to information for over 350,000 taxpayer accounts. However, the actual number of individuals whose personal information was available to criminals accessing these tax accounts is significantly larger, in that these tax accounts include information on all of the individuals claimed on a tax return (e.g., spouses and dependents). IRS analysis also identified over 270,000 additional unauthorized access attempts that failed to clear the authentication processes. The IRS believes that some of this information may have potentially been gathered to file fraudulent tax returns during the upcoming 2016 Filing Season.

According to the IRS, one or more individuals succeeded in clearing an authentication process that required knowledge of information about the taxpayer, including Social Security information, date of birth, tax filing status, and street address. In addition, it appears that these unauthorized users had access to private personal information that allowed them to correctly answer questions which typically only the

¹⁷ A successful access is one in which the unauthorized users successfully answered identity proofing and knowledge-based authentication questions required to gain access to taxpayer account information.

taxpayer would know. This type of information can be purchased from illicit sources or fee-based databases, or obtained from social media sites.

TIGTA's Office of Investigations continues to investigate this incident, coordinating with other Federal law enforcement agencies to determine who is responsible for the intrusion. In addition, the evidence we are gathering is critically important for us to understand the impact on the victims and to document exactly how this happened so it can be prevented in the future.

As part of TIGTA's ongoing review assessing IRS efforts to authenticate individual taxpayers' identities when obtaining services, we determined that the IRS assessed the risk of the Get Transcript application as required. However, the IRS found that the authentication risk associated with Get Transcript was low for both the IRS and taxpayers. The low risk rating resulted in the IRS requiring only single-factor authentication to access the Get Transcript application. While single-factor authentication provides some assurance that an individual attempting to access the online Get Transcript application is actually the taxpayer entitled to such access, the increase in private and public sector data breaches increases the risk that unscrupulous individuals can obtain the information typically required to successfully authenticate someone else's identity. Considering the extent of the information that can be viewed or obtained through the Get Transcript application for the taxpayer as well as the other individuals claimed on a tax return, the IRS should have rated the risk associated with the Get Transcript application as high, which would require a multi-factor authentication in order to grant access.

The IRS is notifying those affected taxpayers by mail regarding the Get Transcript data breach and is placing a protective identity theft marker on their tax accounts to prevent criminals from filing future tax returns using the stolen SSNs. For certain individuals, the IRS will also offer free identity-theft monitoring through an external vendor. TIGTA has a review ongoing to evaluate IRS assistance provided to victims of the Get Transcript data breach. We plan to issue our interim report on the accounts that IRS initially identified in January 2016.¹⁸

The proliferation of data breaches reported in recent years and the types of information available on the Internet has resulted in a degradation of controls used to authenticate individuals accessing personal data in some systems. Providing taxpayers more avenues to obtain answers to their tax questions or to access their own tax

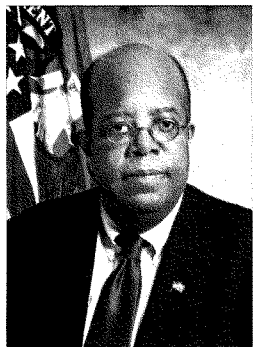
¹⁸ TIGTA, Audit No. 201540027, *Evaluation of Assistance Provided to Victims of the Get Transcript Data Breach*, report planned for January 2016.

records online also creates greater risk to an organization and provides more opportunities for exploitation by hackers and other fraudsters. In its most recent Strategic Plan,¹⁹ the IRS acknowledged that the current technology environment has raised taxpayers' expectations for online customer service interactions. However, the risk for this type of unauthorized access to tax accounts will continue to grow as the IRS focuses its efforts on delivering taxpayers self-assisted interactive online tools.

We at TIGTA remain concerned about the ever-increasing attempts to defraud taxpayers through identity theft and other scams. Because of the importance of these issues, we plan to provide continuing audit coverage of the IRS's efforts to prevent tax-related identity theft and will continue to investigate any instances of attempts to corrupt or otherwise interfere with the Nation's system of tax administration.

Senator Ayotte, thank you for the opportunity to update you on our work on this critical tax administration issue and to share my views.

¹⁹ *Internal Revenue Service Strategic Plan – FY 2014-2017* (IRS Publication 3744), pgs. 6-7 (June 2014).



J. Russell George

Treasury Inspector General for Tax Administration

Following his nomination by President George W. Bush, the United States Senate confirmed J. Russell George in November 2004, as the Treasury Inspector General for Tax Administration. Prior to assuming this role, Mr. George served as the Inspector General of the Corporation for National and Community Service, having been nominated to that position by President Bush and confirmed by the Senate

in 2002.

A native of New York City, where he attended public schools, including Brooklyn Technical High School, Mr. George received his Bachelor of Arts degree from Howard University in Washington, DC, and his Doctorate of Jurisprudence from Harvard University's School of Law in Cambridge, MA. After receiving his law degree, he returned to New York and served as a prosecutor in the Queens County District Attorney's Office.

Following his work as a prosecutor, Mr. George joined the Counsel's Office in the White House Office of Management and Budget where he was Assistant General Counsel. In that capacity, he provided legal guidance on issues concerning presidential and executive branch authority. He was next invited to join the White House Staff as the Associate Director for Policy in the Office of National Service. It was there that he implemented the legislation establishing the Commission for National and Community Service, the precursor to the Corporation for National and Community Service. He then returned to New York and practiced law at Kramer, Levin, Naftalis, Nessen, Kamin & Frankel.

In 1995, Mr. George returned to Washington and joined the staff of the Committee on Government Reform and Oversight, where he served as the Staff Director and Chief Counsel of the Government Management, Information and Technology subcommittee (later renamed the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations), chaired by Representative Stephen Horn. There he directed a staff that conducted over 200 hearings on legislative and oversight issues pertaining to Federal Government management practices, including procurement policies, the disposition of government-controlled information, the performance of chief financial officers and inspectors general, and the Government's use of technology. He continued in that position until his appointment by President Bush in 2002.

In addition to his duties as the Inspector General for Tax Administration, Mr. George serves as a member of the Recovery Accountability and Transparency Board, a non-partisan, non-political agency created by the American Recovery and Reinvestment Act of 2009 to provide unprecedented transparency and to detect and prevent fraud, waste, and mismanagement of Recovery funds. There, he serves as chairman of the Recovery.gov committee, which oversees the dissemination of accurate and timely data about Recovery funds.

Mr. George also serves as a member of the Integrity Committee of the Council of Inspectors General for Integrity and Efficiency (CIGIE). CIGIE is an independent entity within the executive branch statutorily established by the Inspector General Act, as amended, to address integrity, economy, and effectiveness issues that transcend individual Government agencies; and increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General. The CIGIE Integrity Committee serves as an independent review and investigative mechanism for allegations of wrongdoing brought against Inspectors General.

Senator AYOTTE. Thank you.
Mr. Christopher Lee, Senior Adviser Attorney for the National Taxpayer Advocate Service.
Thank you, Mr. Lee.

**STATEMENT OF CHRISTOPHER LEE, SENIOR ATTORNEY
ADVISER, NATIONAL TAXPAYER ADVOCATE SERVICE**

Mr. LEE. Senator Ayotte, thank you for inviting me to speak today about tax identity theft. When I joined the Taxpayer Advocate Service in 2004, one of my first assignments was to look into how the IRS was dealing with the small but growing problem of identity theft. Since then, the National Taxpayer Advocate has included identity theft as the most serious problem in nearly every annual report she has delivered to Congress.

Today, identity theft cases account for approximately one-quarter of all TAS case receipts. These cases are usually very complex, often involving many years and involving multiple issues. In TAS, we assign a single case advocate to work with the taxpayer from day one until all related issues have been resolved. The taxpayer has the case advocate's direct phone number and deals solely with this case advocate throughout, no matter how many IRS employees are involved in the back end.

I am pleased to report that TAS resolves identity theft cases in about 66 days. To get an accurate sense of how long it takes the IRS to work an identity theft case, TAS reviewed a representative sample of approximately 400 identity theft cases closed by the IRS during the month of June 2014. We found that the average cycle time was 179 days, or about six months. We reported this and other key findings in Volume II of the National Taxpayer Advocate's 2014 Annual Report to Congress that we released in December.

Apart from the time and aggravation in having to prove one's own identity again and again, the most significant impact to a victim of tax-related identity theft is the delay in receiving his or her refund. With the average refund amount being approximately \$2,700, getting access to their tax refund is a big deal, particularly for low-income taxpayers, which is why we have been pushing the IRS to resolve these cases promptly.

Some victims also experience consequences when other Federal agencies or private businesses rely on IRS data. For example, the IRS generally will not release account transcripts while an identity theft case is pending, so students applying for financial aid and homeowners applying for a mortgage may face additional obstacles.

Despite a memo from the IRS Office of Chief Counsel concluding that the IRS may share with the victim a copy of a return filed by an identity thief, the IRS continues to deny such requests. Commissioner Koskinen recently committed that the IRS would allow identity theft victims to obtain redacted copies of tax returns filed under their SSN. We support this decision and look forward to the adoption of the new procedures, and we thank you for your involvement in this decision.

In many instances, the IRS is the first to learn of the identity theft. In 2011, we recommended that when the IRS discovers that

a taxpayer's SSN is used without authorization to file a tax return, it immediately notify the SSN owner.

Last summer the IRS conducted a pilot program and notified approximately 25,000 taxpayers that their SSN had been misused for tax purposes. The IRS is currently evaluating recommendations from the pilot, and we urge the IRS to adopt the recommendation that it systemically issue letters to taxpayers informing them that someone has attempted to file a tax return using their SSN.

Thus far, I have focused on the victim assistance aspects of identity theft. Now I will share some thoughts on what the IRS is doing to prevent identity theft from occurring in the first place.

The IRS uses targeted filters to suspend the processing of tax returns that it suspects were filed by identity thieves. While we support the use of data-driven models to detect suspicious tax returns, the IRS has an obligation to sufficiently test these filters prior to rolling them out. This filing season approximately one out of three returns suspended by one such program, the Taxpayer Protection Program, were false positives, meaning that hundreds of thousands of taxpayers who had filed legitimate returns had to spend time contacting the IRS to verify their identity. This resulted in a severe backlog of calls to the Taxpayer Protection Program phone line, and in some weeks only 1 in 10 callers got through to an assister. We cannot afford to have a repeat of this filing season when far too many legitimate filers were inconvenienced and then were unable to reach an assister when they called the number instructed.

All this does not paint a pretty picture, but there is some good news. The IRS has recently reorganized its identity theft victim assistance units, moving toward a more centralized approach for which our office has long advocated. TAS will be involved in the re-engineering of identity theft victim assistance procedures this fall, and we will reiterate our recommendation that when a case involves multiple issues, one IRS employee should oversee the case to make sure the problems are handled in a coordinated manner.

I appreciate the opportunity to testify today and would be happy to answer your questions.

[The prepared statement of Mr. Lee follows:]

WRITTEN STATEMENT OF

**CHRISTOPHER J. LEE
SENIOR ATTORNEY-ADVISOR
TAXPAYER ADVOCATE SERVICE**

HEARING ON

**TAX-RELATED IDENTITY THEFT
AND FRAUDULENT TAX RETURNS**

BEFORE THE

**COMMITTEE ON BUDGET
U.S. SENATE**

AUGUST 26, 2015

Chairman Enzi, Ranking Member Sanders, and distinguished Members of the Committee:

Thank you for inviting me to testify today about the problems in tax administration stemming from the filing of fraudulent tax returns by identity thieves.¹

When I joined the Taxpayer Advocate Service in 2004 as an attorney-advisor to the National Taxpayer Advocate, one of my first assignments was to look into how the IRS was dealing with the small, but growing, problem of identity theft. Since then, tax-related identity theft has become an epidemic, and the National Taxpayer Advocate has written about the problems it causes for its victims and for the IRS in nearly every Annual Report she has delivered to Congress.²

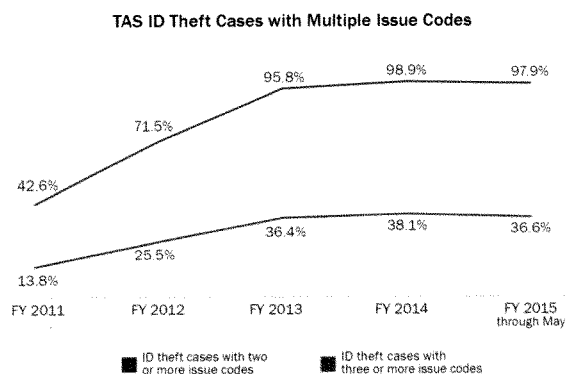
Identity theft cases account for approximately a quarter of all TAS case receipts.³ One reason why so many identity theft cases end up in TAS is because of their complexity – these cases often require actions to be taken by employees from multiple IRS functional units. The vast majority of TAS identity theft cases involve more than one issue code, and about a third of them contain three or more issue codes,⁴ as the figure below illustrates.

¹ The views expressed herein are those Christopher J. Lee, Senior Attorney-Advisor to the National Taxpayer Advocate, and do not necessarily reflect the position of the National Taxpayer Advocate, the IRS, or the Treasury Department.

² See National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 44-90 (*Identity Theft Case Review Report: A Statistical Analysis of Identity Theft Cases Closed in June 2014*); National Taxpayer Advocate 2013 Annual Report to Congress 75-83 (Most Serious Problem: *The IRS Should Adopt a New Approach to Identity Theft Victim Assistance that Minimizes Burden and Anxiety for Such Taxpayers*); National Taxpayer Advocate 2012 Annual Report to Congress 42-67 (Most Serious Problem: *The IRS Has Failed to Provide Effective and Timely Assistance to Victims of Identity Theft*); National Taxpayer Advocate 2011 Annual Report to Congress 48-73 (Most Serious Problem: *Tax-Related Identity Theft Continues to Impose Significant Burdens on Taxpayers and the IRS*); National Taxpayer Advocate 2009 Annual Report to Congress 307-17 (Status Update: *IRS's Identity Theft Procedures Require Fine-Tuning*); National Taxpayer Advocate 2008 Annual Report to Congress 79-94 (Most Serious Problem: *IRS Process Improvements to Assist Victims of Identity Theft*); National Taxpayer Advocate 2007 Annual Report to Congress 96-115 (Most Serious Problem: *Identity Theft Procedures*); National Taxpayer Advocate 2005 Annual Report to Congress 180-91 (Most Serious Problem: *Identity Theft*); National Taxpayer Advocate 2004 Annual Report to Congress 133-36 (Most Serious Problem: *Inconsistence Campus Procedures*).

³ During the first two quarters of fiscal year (FY) 2015, TAS received 23,657 identity theft cases (24 percent of all TAS receipts). TAS, *Business Performance Review* (2nd Quarter FY 2015).

⁴ When TAS opens a case, it assigns a primary issue code based on the most significant issue, policy or process within the IRS that needs to be resolved. When a TAS case has multiple issues to resolve, a secondary issue code will be assigned. See Internal Revenue Manual (IRM) 13.1.16.13.1.1, *Taxpayer Issue Code* (Feb. 1, 2011).

Figure 1⁵

Even as complex as these cases have become, TAS Case Advocates have learned to resolve identity theft cases efficiently. In fiscal year (FY) 2015 (through May), TAS has taken an average of 66 days to close such cases, compared to 126 days over the same period five years ago.⁶

Before proceeding further, I would like to point out an important distinction between two common types of tax-related identity theft. In “refund-related” identity theft, a perpetrator uses the Social Security number (SSN) of another person to file a tax return with falsified information for the purpose of obtaining an improper refund, usually very early in the filing season. This scenario causes serious repercussions to the victim by delaying the processing of his or her legitimate return and the issuance of the legitimate refund, if any.

In “employment-related” identity theft, an individual files a tax return using his or her own taxpayer identifying number (sometimes using an Individual Taxpayer Identification Number, or ITIN), but uses someone else’s SSN to obtain employment. The employer would then issue a Form W-2 reflecting the wages earned by this individual, but reported on the identity theft victim’s SSN. When the SSN holder files a return with the IRS, the IRS Automated Underreporter program will notify the victim that additional tax is due on this unreported income. This may be the first time the SSN holder realizes he or she is a victim of identity theft.

⁵ Data obtained from Taxpayer Advocate Management Information System (TAMIS) (Oct. 1, 2011; Oct. 1, 2012; Oct. 1, 2013; Oct. 1, 2014; June 1, 2015).

⁶ Data obtained from TAMIS (June 1, 2010; June 1, 2015).

I. Refund-Related Identity Theft

For victims of refund-related identity theft, the consequences can be devastating. Apart from the time and frustration involved in dealing with the IRS to prove one's own identity, taxpayers generally do not receive their refunds until their cases are resolved. Among all taxpayers receiving refunds this filing season, the average refund amount was just over \$2,700.⁷ For low income taxpayers, a tax refund may constitute a significant percentage of their annual income. Lengthy case resolution times can translate to financial inconvenience and sometimes hardship, which is why we have been pushing the IRS to resolve identity theft cases promptly.

To get an accurate sense of how long the IRS takes to fully resolve an identity theft case, TAS conducted a study published in Volume 2 of the National Taxpayer Advocate's 2014 Annual Report to Congress.⁸ Our 2014 case review showed that the average cycle time for identity theft cases worked by the IRS was 179 days.⁹ The IRS can and should do better. To improve the victim experience and to shorten its identity theft case cycle time, the National Taxpayer Advocate recommended that for complex identity theft cases (ones that require the victim to deal with multiple IRS functions), the IRS designate a sole contact person with whom the victim can interact for the duration of the case.¹⁰ We believe this would not only put the victim more at ease, but also avoid having an identity theft case fall through the cracks and adding to the cycle time.

Overall, about two-thirds (67 percent) of all identity theft cases in our sample were either (1) worked in more than one function, or (2) reassigned to another assistor within a function.¹¹ When a case is transferred or reassigned, it delays case resolution and adds to the frustration experienced by the victim. We found that 42 percent of the cases analyzed in our sample had periods of inactivity (*i.e.*, periods of time when no work was being performed on the case for more than 30 days).¹²

The IRS recently reorganized its identity theft victim assistance units, moving toward a more centralized approach for which our office has long advocated.¹³ TAS will be involved with the IRS in its re-engineering of its identity theft victim assistance procedures this fall, and we will reiterate our recommendation that the IRS assign a

⁷ IRS, *Filing Season Statistics for Week Ending April 17, 2015*, available at <http://www.irs.gov/uac/Newsroom/Filing-Season-Statistics-for-Week-Ending-April-17-2015>.

⁸ See National Taxpayer Advocate 2014 Annual Report to Congress vol. 2 (*Identity Theft Case Report: A Statistical Analysis of Identity Theft Cases Closed in June 2014*).

⁹ National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 53.

¹⁰ National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 55.

¹¹ See National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 52.

¹² See National Taxpayer Advocate 2014 Annual Report to Congress vol. 2, 52.

¹³ See National Taxpayer Advocate 2007 Annual Report to Congress 115.

sole contact person with whom the victim can interact for the duration of the identity theft case.

II. Employment-Related Identity Theft

Employment-related identity theft may occur when the perpetrator does not possess a valid SSN that authorizes him or her to work. As a result, he or she may steal, purchase, or borrow a valid SSN for purposes of obtaining employment. In other instances, the perpetrator of employment-related identity theft might have a valid SSN, but does not want wages reported under his or her SSN. For example, he may have a court-ordered obligation to pay spousal or child support, and thus have a strong desire to avoid earning income under his own SSN.

Victims of employment-related identity theft may receive an Automated Underreporter letter from the IRS. It may take months for the victim to demonstrate to the IRS that he or she did not actually earn the income on the Form W-2.

In situations where an individual files a tax return using an ITIN to report income from a Form W-2 with someone else's SSN, the IRS now has procedures in place to minimize the tax administration impact to the victims in these employment-related identity theft situations.¹⁴ If the procedures work as intended, the victim will not experience any adverse tax consequences from an ITIN holder filing a tax return using the victim's SSN. Thus, as a practical matter, there is no tax administration impact to victims of this type of identity theft (where there is an ITIN/SSN mismatch).

In many instances, the IRS may be the first to learn that the victim's SSN has been compromised. In the 2011 Annual Report to Congress, the National Taxpayer Advocate recommended that the IRS "[p]romptly notify all victims of identity theft of the misuse of their SSN and provide information about what steps the taxpayer may take to further protect himself or herself."¹⁵ When the IRS discovers that a taxpayer's SSN was used without authorization to file a tax return, it should immediately disclose to the SSN owner that the number has been used on another return and that he or she is an apparent victim of employment-related identity theft. That way, the victim may be able to make better decisions about how to minimize the impact of the identity theft.

For certain types of identity theft, the IRS does send a letter informing identity theft victims that their personal information has been compromised and providing suggestions about what the taxpayer may wish to do (e.g., contact the credit reporting agencies).¹⁶ However, the IRS does not currently send such letters to victims of employment-related identity theft.

¹⁴ See IRM 4.19.3.3.3.4, *Other Transaction Codes and Math Error Codes* (July 22, 2015).

¹⁵ National Taxpayer Advocate 2011 Annual Report to Congress 63.

¹⁶ See IRM 21.9.2.5, *Responses to Identity Theft and Data Loss Notification Letters/Notices* (Oct. 1, 2014).

In July 2014, the IRS conducted a pilot and notified approximately 25,000 taxpayers that their SSN had been misused for employment tax purposes. The pilot targeted taxpayers between the ages of 25 and 65 who had filed a prior year return. The IRS sent these taxpayers a letter advising them of the misuse and suggesting ways they could protect themselves – contact credit bureaus, the Social Security Administration, etc. The IRS is currently exploring the following two recommendations from the pilot:

- 1) Should the IRS systemically issue letters to the taxpayer informing them the service identified their SSN as compromised?
- 2) Should the IRS allow those taxpayers the choice to opt-in to obtain an Identity Protection Personal Identification Number (IP PIN)?

III. Social Security Identity Defense Act of 2015¹⁷

In May of this year, Senators Ron Johnson (R-Wis.), Mark Warner (D-Va.), and Kelly Ayotte (R-N.H.) proposed legislation that would amend IRC § 6103(l)(23) to allow, among other things, the Secretary to disclose to the SSN holder:

- The belief that his or her SSN has been used fraudulently in the employment context;
- That the IRS had reported this identity theft to the Federal Bureau of Investigation (FBI) and Attorney General; and
- Any other information the IRS and the Federal Trade Commission deem helpful and appropriate to share with the identity theft victim.

The IRS is already able to disclose to identity theft victims that someone has misused their SSN to file an unauthorized tax return without this legislation. As mentioned earlier, the IRS completed a pilot program in 2014 and is currently considering whether to expand the use of systemically-generated letters to notify victims of employment-related identity theft, which our office has encouraged the IRS to do since 2011. Thus, while our office continues to urge the IRS to notify victims of employment-related identity theft that their SSN has been compromised, we do not believe this portion of the Social Security Identity Defense Act of 2015 is necessary.

The proposed bill would also allow the FBI and Attorney General to disclose information received from the IRS under this Act to federal, state, and local law enforcement authorities for purposes of carrying out criminal investigations or prosecutions. In a 2012 memorandum, the IRS Office of Chief Counsel noted that Internal Revenue Code (IRC) § 6103(i)(3)(A) allows the disclosure of the “bad return” to appropriate federal law enforcement agencies for purposes of enforcing federal non-tax crimes.¹⁸ This 2012 Counsel memo further concluded that state and local

¹⁷ S. 1323, 114th Cong. (2015).

¹⁸ IRS Office of Chief Counsel Memorandum, *Disclosure Issues Related to Identity Theft*, PMTA 2012-05 (Jan. 18, 2012) [“2012 Counsel memo”], available at http://www.irs.gov/pub/irsoa/pmta_2012-05.pdf.

law enforcement agents appointed to the Department of Justice as part of grand jury investigations may access return information under IRC §§ 6103(h)(2) or (i)(1), (i)(2), and (i)(3)(A).

I believe the current framework of privacy and disclosure laws in IRC § 6103 allows the IRS to share sufficient information with federal, state, and local law enforcement. The continuing expansion of the exceptions to the privacy protections afforded by IRC § 6103 may erode taxpayers' confidence in the ability of the IRS to protect sensitive information, and may lead to reduced taxpayer compliance. Furthermore, although the bill specifies that state and local authorities must first enter into a Memorandum of Understanding with the IRS that covers confidentiality of returns/return information and prohibitions on re-disclosure, I remain concerned with how law enforcement agencies may use the information shared by the IRS. Even one incident where law enforcement officials violate taxpayer confidentiality may have a chilling effect on tax compliance among ITIN holders.

IV. Identity Theft Victims' Access to Tax Return Information

In 2009, the IRS Office of Chief Counsel provided guidance regarding whether the IRS could disclose to the victim information furnished by a perpetrator of the identity theft.¹⁹ Counsel concluded that an identity theft victim's own return information may be disclosed to the taxpayer, and that the cause of the events on the taxpayer's account – suspected identity theft and use of the SSN on another return – would also be disclosable to the victim as the taxpayer's return information. However, any other information about the fictitious Form 1040 or the incorrect Form W-2 and any information about the IRS's investigation into the civil or criminal tax liability of the person who misused the SSN *is not* the return information of the victim. As such, it may not be disclosed to the victim because the Code provides no authority for disclosure of a third party's return information to that victim, including the perpetrator's identity.

In 2012, the IRS Office of Chief Counsel revisited this issue. Upon further reflection, Counsel revised how it analyzes ownership of tax return information filed by an identity thief. The 2012 Counsel memo concluded that the "bad return," upon its filing and receipt by the Service, is the return information of *both* the victim and the alleged identity thief, and thus the IRS may disclose an individual's return information, including a copy of the "bad return," to that individual so long as the disclosure would not impair federal tax administration. However, the Code provides no authority for disclosure of an identity thief's return information (including the identity of the person who filed the "bad return") to an identity theft victim.

¹⁹ IRS Office of Chief Counsel Memorandum, *Identity Theft Returns and Disclosures Under Section 6103*, PMTA 2009-024 (June 8, 2008) ["2008 Counsel memo"], available at <http://www.irs.gov/pub/iraoa/pmta2009-024.pdf>.

Despite the Counsel guidance, the IRS continues to deny requests for copies of tax returns submitted by identity theft victims. IRM 21.3.6.4.3.2, *Return Copy Procedures and Identity Theft* (Aug. 5, 2015), instructs employees *not* to provide tax copies of tax returns when identity theft indicators are present on the requestor's account. In 2014, TAS received complaints (via our Systemic Advocacy Management System) from a practitioner who experienced difficulty obtaining transcripts for her clients who have been victimized by identity theft.²⁰

On May 6, 2015, Senator Ayotte made a formal inquiry asking the Commissioner why the IRS has continued to deny access to account transcripts, despite the guidance from the 2012 Counsel memo. On May 28, 2015, Commissioner Koskinen responded to Senator Ayotte, stating that the IRS has decided to change its policy regarding the disclosure of fraudulently filed identity theft returns to the victims. The Commissioner explained that while some redaction may be necessary, the IRS would develop procedures to allow identity theft victims to request copies of tax returns filed under their SSN.²¹ We support this decision and look forward to the adoption of the new procedures.

V. Fraud Detection

Thus far, I have focused on the victim assistance aspects of identity theft. Now I will share some thoughts on what the IRS has done to prevent identity theft from occurring in the first place. Through improved filters and screening, the IRS was able to detect and stop more than 3.8 million suspicious tax returns in the 2015 filing season (through May 31).²² The largest component of these suspended returns was attributable to the Taxpayer Protection Program (TPP), where the IRS uses targeted filters to select and suspend the processing of tax returns it suspects were filed by identity thieves. When a TPP filter stops a return, the IRS sends the taxpayer a letter asking him or her to either call the TPP phone number or visit the out of wallet website to verify his or her identity.

This filing season, approximately one out of three returns suspended by the TPP were false positives, meaning that hundreds of thousands of taxpayers who filed legitimate returns had to spend time contacting the IRS to verify their identity.²³ This resulted in a severe backlog of calls to the TPP toll-free phone line. As shown in the figure below, the level of service (LOS) on the TPP line was particularly poor during

²⁰ See TAS, Systemic Advocacy Management System issues 32098 and 32098.

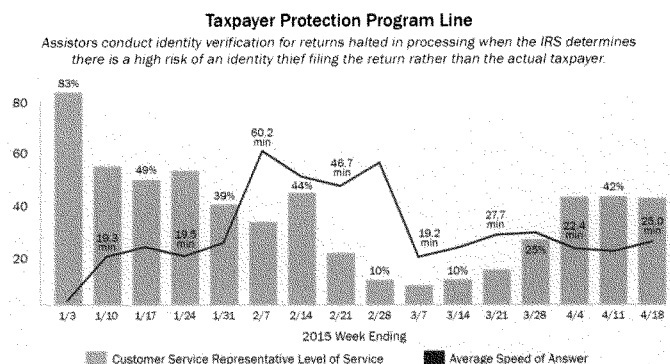
²¹ IRM 21.2.3.5.8.1, *Transcripts and Identity Theft* (Aug. 19, 2015), provides that "if the taxpayer requests a transcript of a fraudulent tax return, advise the caller that procedures are currently being finalized."

²² IRS, *Global Identity Theft Report* (May 31, 2015).

²³ IRS, *IRS Return Integrity & Compliance Services (RICS), Update of the Taxpayer Protection Program (TPP)* 9 (June 24, 2015).

the 2015 filing season, when the LOS dipped below ten percent for three consecutive weeks.²⁴

Figure 2



The National Taxpayer Advocate supports the use of data-driven models to detect suspicious tax returns. However, the IRS has an obligation to sufficiently test these filters; a false positive rate of 34 percent is unacceptably high.²⁵ Furthermore, the IRS has a responsibility to ensure that the phone lines are sufficiently staffed to handle the volume of calls to the TPP. We cannot have a repeat of the 2015 filing season, when far too many legitimate filers were pulled into the TPP, and then were unable to reach an assistor when they called the number instructed.

VI. Conclusion

Identity theft causes significant problems for both the taxpayer and the IRS. As the IRS re-engineers its identity theft victim assistance procedures, it should look at its processes from the perspective of the identity theft victim. Given the multiple points of contact and resultant periods of inactivity, the IRS might find if it adopts our suggestions, that it would actually require **fewer** resources to do the same volume of work. I am confident that taxpayers – our customers – would be much more satisfied with their experience.

²⁴ For weeks ending February 28, 2015, March 7, 2015, and March 14, 2015, the level of service on the TPP line was 9.7 percent, 7.6 percent, and 9.8 percent, respectively. The IRS attributes the low LOS for the TPP line to a number of factors, including budget challenges that impacted all toll-free lines, problems with the Out-of-Wallet website, and multiple weather-related closures in TPP call sites. Additional staff for TPP were trained and added in late March to improve LOS.

²⁵ IRS, *IRS Return Integrity & Compliance Services (RICS), Update of the Taxpayer Protection Program (TPP)* 9 (June 24, 2015).

For victims of employment-related identity theft, we encourage the IRS to notify victims of the SSN misuse, as it already does in other types of identity theft. We also support the IRS's decision to release transcripts of tax returns filed under a taxpayer's SSN, with proper redactions to protect the identity of the perpetrator.

I thank the committee for its continued involvement and interest in this matter. I appreciate the opportunity to testify.

Senator AYOTTE. Thank you, Mr. Lee.

Commissioner Koskinen, first of all—you heard Ms. Weeks' testimony, and I wrote to you, really at her urging, to ensure that taxpayers could get a copy of their fraudulent return. You have agreed now to do that. I have to tell you, since you agreed to do that, people across the country have been contacting my office on this issue. So when will this happen? Because I know not only Ms. Weeks, but many taxpayers, they want to know how their information was misused so that they can take steps to protect themselves, and obviously I think all of us, if we were a victim, would want to know the full extent of how such personal information is being abused.

Mr. KOSKINEN. And as you know, we support that need. We think taxpayers do need to be able to have access to that information, if for nothing else, as Ms. Weeks noted, just to close the circle and to understand what's been involved.

Senator AYOTTE. I think it can also help you understand what you need to do to protect yourself, too.

Mr. KOSKINEN. Yes. For instance, with Get Transcript, we immediately, as soon as we found there was an issue, notified taxpayers. I do think that taxpayers need to get notice. I think they need to have access to the information.

Since you and I talked it has turned out that, like everything, it's more complicated to get the system to work than I had hoped. Part of it is because we have an obligation under Section 6103 to protect taxpayer information. So the complication is—and we're talking about, as you know, hundreds of thousands of identity theft cases a year—that when a return is filed, there may be more than one taxpayer's Social Security number involved. For instance, in Ms. Weeks' case, where a child is taken as a dependent, what's happening at the top of that fraudulent return is that there are other stolen identities. So that information can't be provided because those are real people. It's just that somebody has stolen that information and impersonated them. So we can't provide that information to any of the other taxpayers on the return.

Similarly, attachments, whether they're W-2's or other forms, oftentimes have stolen information from other taxpayers. We are not allowed to share, for instance with Ms. Weeks, the other taxpayer who has had their information stolen.

To do it manually, if you think about it, you'd say, well, I could redact that information pretty quickly. But what we need is a system that will do that automatically so that we can regularly provide this information.

I had hoped we'd get that up sooner. I am told that in a few weeks we will be able to, as a regular matter for any taxpayer, be able to provide that.

If your identity is stolen and it is the identity used for filing the return, then that information is all available to the taxpayer.

Senator AYOTTE. They can get everything if they're using their identity.

Mr. KOSKINEN. If you're using your identity. In cases like Ms. Weeks', where it's simply a stolen identity to add to a deduction but it's not the return, that's where it gets more complicated as to how much information is there. In Ms. Weeks' case, for instance, the only use of the identity, and that's generally the case for a

child, is just to use the child's Social Security number. There is no other information about the child on that return. She's been a good catalyst for all of us to try to get this problem solved. In her case, when she gets the copy of the return, the information will all be redacted because the data belongs to the other taxpayer-victims——

Senator AYOTTE. So what kind of investigation is being done to ensure that the taxpayer information at the top isn't just another innocent taxpayer who has been stolen but someone who may be involved in some way in the perpetration? Is there a follow-through done?

Mr. KOSKINEN. Yes.

Senator AYOTTE. Because I think, at the end of the day, we're all appalled at what's happened to the Weeks family, and we want to make sure we get those who have committed this horrific crime and hold them accountable.

Mr. KOSKINEN. Yes. The challenge for the entire economy in a digital age is the tremendous amount of personal data that's available to criminals. The estimate is over 100 million Americans have data out in the hands of criminals. The Dark Net, as it's called, the underside of the Web, has an estimated five times as much information as the entire Public Web. There are criminal syndicates in Russia, for instance, reputed to have 1 billion user identity's and passwords.

So what's happening with children, children's identity's and Social Security numbers are used in schools, they're used in hospitals, they're used with regard to health care. On certificates, when children or adults die, that information is available. Congress supported us and we shut down the availability of the Death Master File, because what criminals want is to file a return where there isn't going to be a competing return. They increase their chances of getting through. So that's why they like people who are deceased, poor people who are not likely to file, elderly people who are not likely to file.

In any event, the bottom line is taxpayers deserve to have as much information about that false return as we can provide them. As I say, within the next few weeks I am advised, because I've asked this question again, that we will have a system that will allow people automatically to get that information.

Senator AYOTTE. So, Commissioner, in the next few weeks, what can I expect as a deadline?

Mr. KOSKINEN. Well, I asked that question, and we have a lot going on. Our people have said that they would like to certainly before October is over. In other words, in the next six to eight weeks we should have that system. It's already being built. We've got the legal authority for it. We hope to then regularly be able to provide that information before we get very far into the fall. I could not pin them down any further because we're also doing all of the IT work to get ready for the next filing season.

Senator AYOTTE. All right. I need you to pin them down.

Mr. KOSKINEN. All right, I will.

Senator AYOTTE. Because this is important.

Mr. KOSKINEN. I will start by saying that if it's not ready by the end of October, I will want to know. If we can get it earlier than that, we will do that.

Senator AYOTTE. Well, we'll be following up.

Mr. KOSKINEN. And that would be fine.

Senator AYOTTE. Because this is incredibly important, not just to Ms. Weeks, but I know many of the taxpayers that are here today who want more information about how their personal information has been misused.

Mr. KOSKINEN. Right.

Senator AYOTTE. So this is one where I hope you'll make it a top priority to get this done.

Mr. KOSKINEN. Right. And one of the things we are concerned about is that this is information that the criminals have gotten from somewhere else. So when they get enough information to file a false return, or to access a Get Transcript account, our major concern for taxpayers is to understand that data is out there and they need to know what's on the tax return, but more importantly, they need to then take steps to protect their information.

Senator AYOTTE. Absolutely.

Mr. KOSKINEN. It goes to changing your identity, changing your passwords, not using the same—

Senator AYOTTE. It's a huge process and a big rigmarole. When you become the victim of identity theft, all your credit information, everything is impacted.

Mr. KOSKINEN. Yes. And so whatever we can do to be helpful, we are going to try to do. It's a traumatic event for taxpayers.

Senator AYOTTE. It is. I'm going to hold you to that.

Mr. KOSKINEN. That's fine. I'm happy to be held to that.

Senator AYOTTE. I appreciate it.

So, I want to follow up, with Mr. Lee, and Inspector George. I know the Commissioner says we're going to assign one point of contact now, and that sounds new to me on this, because we heard the story from Ms. Weeks, we heard the story from Mr. Walker as well, about the jumping around and the rigmarole that people are going through when they're trying to correct the record—in Mr. Walker's case, when his clients actually tried to return money to the Treasury.

So when will this get in place?

The other question I have is I know you said 120 days, but just listening to everyone here I heard 120 days, and then I heard 278 days, and then I heard 179 days. I bet you if I went out into that audience and asked folks out there that were victims of identity theft, they'd be talking about hundreds and hundreds of days, unfortunately.

So can you clarify that for us and how we're going to get more responsive here and make it easier for people?

Mr. KOSKINEN. Yes. Let me just clarify one thing. As noted, we have consolidated what used to be in four different departments of the IRS to try to get a single point of operations and contact. The issue that the Taxpayer Advocate, Nina Olson, and I continue to discuss is, whether within that now centralized unit—which we think will be much more efficient and allow us to move faster—

whether you should have an individual person answering the phone.

The Taxpayer Advocate, as Mr. Lee pointed out, suggests that if there are complications, there ought to be one person. Our sense is if we can build the right system—for instance, when you call an airline and talk to someone, when you call back you don't get the same person, but they have a system that allows them to know exactly what you said the last time you called. We are not quite there yet, but our hope is, with a little bit of funding, that we can actually build a record so that when you call the next time your previous discussion is already readily available. Because otherwise, that's when people think a single person is good.

The problem with a single person, the reason airlines and Amazon don't do that, is that when you call back, they may be on vacation, they could be at lunch, they could be on another phone line. But I take the point, that there's nothing more frustrating, and nothing has been more frustrating, than being moved from one part of the agency to another.

Senator AYOTTE. Right. It's like you told your story once, and then you get someone new and they don't know anything about it.

I wanted to allow Mr. George and Mr. Lee to comment on that as well.

Mr. GEORGE. As it relates to the timing, Senator, the IRS issued guidance in Fiscal Year 2013 to inform taxpayers, for their employees, IRS employees to inform taxpayers that these matters would be resolved in 180 days.

Senator AYOTTE. Okay.

Mr. GEORGE. What we uncovered is that during that timeframe, Fiscal Year 2013—oh, and what they also did, the IRS informed the oversight board, the IRS oversight board that they were resolving these matters in 120 days. So that's where—

Senator AYOTTE. So in other words, if I'm a victim of identity theft, the IRS is saying 180 days.

Mr. GEORGE. That was the guidance that they issued.

Senator AYOTTE. That was the last guidance on the issue.

Mr. GEORGE. Unless there was subsequent guidance, and that one I can't say for the record.

Senator AYOTTE. So what is really happening?

Mr. GEORGE. Well, what is happening is the information that was reported out, the IRS eliminated an entire subset of cases closed during Fiscal Year 2013. The information that they relayed was cases that were open and closed in Fiscal Year 2013, as opposed to the previous cases that had come to their attention in Fiscal Year 2012 and prior that were also closed. So that eliminated almost two-thirds of the cases that were outstanding that they reported out on. So that's why there's a difference of opinion as to the number of cases.

Senator AYOTTE. What are you hearing, Mr. Lee, in terms of—

Mr. GEORGE. Or the number of days, rather.

Senator AYOTTE. I'm sorry. Mr. Lee, and then go ahead if you have more to offer, Mr. George.

Mr. LEE. Yes, I think there are a couple of things going on. Number one, the IRS is continually improving their processes. So I think TIGTA has looked at the cycle time of identity theft cases in

each of the past three years, and the first year, I guess Fiscal Year 2008, before they came out in 2013 they came out with an estimate of 414 days, and then the following year they came out with reports saying the average cycle time was 212 days, and then earlier this year the cycle time was reported as 278 days. So clearly, the IRS is improving its processes.

Especially in 2013 the IRS has new processes, and I believe even in TIGTA's report where they estimate 278 days, they used a figure of 174 days with the new procedures. So I think six months is the most accurate estimate. We conducted a thorough review last summer where we looked at 400 cases selected at random of all IRS cases closed in June 2014, and we came out with 180 days.

We've heard reports from certain groups within the IRS saying they were going to close their cases in 120 days, which is great. But what we found is that the IRS often looks at cases on a module-by-module basis. So even if that particular function was able to close cases in 120 days—

Senator AYOTTE. It's not fully closed.

Mr. LEE.—it doesn't mean that all the taxpayers' issues were resolved in that 120 days. So I believe our estimate—

Senator AYOTTE. So let's get to the bottom line here, would we all agree that the number of days is unacceptable that people are waiting right now? Because I'm hearing a number of six-month stories, if not longer.

Yes or no? Mr. Lee?

Mr. LEE. Yes, I feel that six months is not acceptable, but it's obviously much better than 278 days.

Senator AYOTTE. It's all relative. But if you are a victim, that's a long time, especially if your tax refund. We've got constituents, people who need these tax refunds to pay important bills to keep going.

Mr. GEORGE. And I'm sure that the Commissioner will address this further, and there is no question that it's unacceptable, but the IRS is restricted by resources, Senator. There's no question about that. Additional resources would allow for more attention to this matter. During the tax filing season, individuals who would otherwise work on these types of cases and assist taxpayers have to now take on phone questions, responsibilities to respond to questions about filing tax information, and so they have to put aside their cases working on tax-related identity theft.

But again, I'll refer to the Commissioner.

Senator AYOTTE. Commissioner.

Mr. KOSKINEN. Well, I don't want every problem when I testify to be tied to the budget, but the Inspector General is correct. Ultimately, this is a question of manpower or person power in terms of addressing it.

I think what you've heard, we'd all agree, is the process is much better than it was three or four years ago. As the Inspector General said, part of what happens in the measuring of time is the old cases took longer. If you add them into the newer cases, which take less time, the average is still higher.

Our goal is to get it down to 120 days or less for cases when they start. We still have cases that take longer. Even 120 days we aren't satisfied with. But as the Inspector General said, we think the con-

solidation of the four departments into one will allow us to move more quickly. But ultimately, in the middle of tax season when we're processing 150 million returns, the fact that we have several thousand fewer people on the phones means that the system bogs down.

Senator AYOTTE. Mr. Lee.

Mr. LEE. Senator, I just want to mention that the Taxpayer Advocate Service is also faced with budget constraints. But if a taxpayer is facing economic burden, they are able to come to us and we've been able to get them the refund in a much shorter time, in about two months. So that is one option. We don't want all of the IRS' identity theft cases, but when the taxpayer has a hardship or economic burden, we are happy to take on their case.

Senator AYOTTE. I appreciate it. And I just want to also make sure that we clarify. As I understand the resource issue, I know that the amount committed to taxpayer services was actually the same, because you and I have kind of gone around a little bit on this, from 2014 to 2015. But as I understand it, the agency chose to reallocate about \$133 million in user fees from taxpayer services to operation support accounts, most of which has gone to implement the new health care law.

Mr. KOSKINEN. Correct. What's important to understand is that we have user fees that historically have been used as a buffer to allow us to fund unfunded issues as they come up. This year the ABLE Act was passed in December. We don't have a budget for that. The health coverage tax credit has been passed, and we don't have a budget for that. Normally we'd apply user fees.

Well, in the last three or four years, because the taxpayer services, account has never been fully funded, we used user fees to support it, and this last year we used \$50 million to support it. But that was about \$100 million less than we used the year before, and you're right, we had to put that into supporting the establishment of the Affordable Care Act, both because it's a statutory mandate and also, for taxpayers, we had to be able to run the filing season and process 5 or 6 million returns that, in fact, reconciled the advance premium tax credits received.

So we have enforcement, we have taxpayer service, we have IT operations and maintenance, and as the budget has been cut for five years, we had to balance where we put these funds.

Senator AYOTTE. I just want to make sure we're clear, though, in terms of what was allocated between 2014 and 2015 for taxpayer services. That number has remained the same, but you had other responsibilities added.

Mr. KOSKINEN. That number as an appropriation remained the same, but because of the fact that the appropriation overall was cut, it meant that the \$100 million that would have gone into taxpayer services—

Senator AYOTTE. Right. But when Congress put the money for the services, that's where they put the same amount of money, right?

Mr. KOSKINEN. Right, and when I testified to the appropriators, I said if we were held flat our taxpayer service was going to be at the 50 to 60 percent level. When it turned out that we weren't held flat, that in fact our budget was cut by \$350 million, we had no

choice but to take \$100 million to fund the statutory mandate passed by Congress.

Senator AYOTTE. To deal with the new law, the Affordable Care Act.

Mr. KOSKINEN. To deal with the new law, yes. This year we are having to take money out of enforcement and taxpayer services, to fund other statutory unfunded mandates. The ABLE Act is a perfectly good act. The Health Coverage Tax Credit is a perfectly good act. We have no money provided by Congress to fund the implementation of those programs. We have to do it. The only place it comes from is either enforcement, taxpayer services, or our ongoing IT work.

Senator AYOTTE. So let me ask the Inspector General, you've made a number of recommendations that you believe the IRS could implement to save money. What thoughts do you have on that?

Mr. GEORGE. What I'd like permission to do, Senator, is to provide you in writing a thorough listing, but I'll just give you what I think would be the most helpful way for the IRS to do its mission and for the U.S. Treasury to benefit.

Senator AYOTTE. Sure.

Mr. GEORGE. When the information reported to the IRS on income is provided by a third party, we have uncovered during the course of all the audit work that we've done and from outside sources that the compliance rate among taxpayers who fall into that category—and again, the category is somebody else is reporting that the taxpayer earned \$100 that year or that pay period, that year—it's almost 98 to 99 percent compliance rate.

At the opposite end of that spectrum are people who operate businesses on a cash-only basis who self-report, the compliance rate is under 20 percent.

So if there was a requirement for everyone to have some form of information sharing by an outside or independent party, that would tremendously empower the IRS and the American taxpayer overall.

Another study, and this was done professionally. If you are asked "Should you pay all the taxes you owe to the Federal Government" again you have a 90-plus rate, 'Yes, I should.' If the question is changed, Senator, slightly to say, 'What if your neighbor down the block, Ms. Jones, isn't paying everything that she owes' then the compliance rate goes down dramatically, because if she isn't paying everything, then why should I pay everything?

So the bottom line, again, is third-party reporting. Then there's access to the new-hire database which is held in the Department of Health and Human Services, so that too could provide the IRS with tools to determine whether the information they're receiving is accurate, whether the person actually did earn what he or she said in the tax return that they filed. And then, of course, working on a lot of the refundable credits and the like, making sure people who—

Senator AYOTTE. Additional child tax credit, earned income tax credit. Yes, we've talked about the fraud and issues that need to be resolved. They could be better addressed there. I know you've issued reports about that.

Mr. GEORGE. Yes.

Senator AYOTTE. And I also have legislation to address some of that.

Mr. KOSKINEN. I would just add one thing, because we have an obligation to be as efficient as we can. We have an obligation to our employees. We have a great workforce who are committed to providing taxpayers the best service we can. People most frustrated by the level of taxpayer service are our taxpayer service employees, the people in the call centers who know the level of service they want to provide, they know the level of service taxpayers expect, and they are frustrated because we can't deliver. We just don't have the resources.

In the little over 20 months since I started as Commissioner, the GAO, the Inspector General, the Taxpayer Advocate, and the oversight board all independently have stated to Congress that the IRS is under-funded and that, in fact, if we continue to have budget cuts, the level of services, the level of enforcement, the level of security will do nothing but go down.

Senator AYOTTE. Well, I would certainly like a commitment as well. I know there have been a number of issues raised, including the issue of when in 2014 IRS employees received bonuses in which they were rewarded after a report done by TIGTA revealed that the IRS had awarded \$2.8 million in bonuses to more than 2,800 employees that had broken agency rules of conduct, including over 1,000 employees who owed back taxes themselves. So if we're going to allocate additional resources, we need better management also, and I have a list of issues like that that I know have been brought up in GAO and TIGTA reports, Commissioner.

Mr. KOSKINEN. If you would like to send me that list. In that case, for instance, we have changed that rule. No longer does an employee—they're not bonuses, they're performance awards—even if a performance award is earned, no longer will it be paid to an employee who has violated an obligation, a serious obligation of the IRS, or is not compliant on their taxes. We've advised the union about that, and they have agreed.

Senator AYOTTE. Well, I appreciate that. I'll send you a list. I have a list.

Mr. KOSKINEN. I'll be happy to have the list.

Senator AYOTTE. I have a list.

Mr. KOSKINEN. Because I agree with you. Taxpayers need to know and be comfortable that they're going to get treated fairly no matter who they are and no matter what political party they belong to. We're spending taxpayer dollars, and taxpayers need to be comfortable that we are careful about it, that we're frugal, that we're as efficient as we can be. I think that's an obligation we have.

Senator AYOTTE. And recognize the immense power that the IRS has, and it's important in the sense that people, when they're interacting with the IRS, you have a tremendous amount of power, and it can be very intimidating.

I wanted to follow up, on some of the issues that Mr. Walker raised as well. He raised an issue of the fact that things have changed in terms of how the professional community is able to get basic information using electronic databases on behalf of their clients. He described, I think, quite a run-around of trying to best represent his clients in a way when they've been victims of identity

theft, but also the story that he told about the check, when they were trying to correct the record and the run-around that has been given for this poor couple.

So what's happened that the professional community isn't able to be part of the solution here and partner to help represent their clients as best they can to prevent identity theft, number one; and then hopefully if they become victims, to correct it?

Mr. KOSKINEN. I was concerned about those vignettes because our most important partners in tax filing season are, in fact, CPAs, enrolled agents, tax attorneys, and preparers generally. But certainly enrolled agents and CPAs, we have partnerships with them, with the National Enrolled Agents Association. We have standing panels. We have advisory committees composed of preparers. I know the practitioner priority line, which is a line specially set aside for practitioners. Again, because of the cuts in personnel, as I said during the last year, it's an oxymoron. It's no longer a priority. You have to stay on the phone if you're a practitioner almost as long as taxpayers, and that's unacceptable because, as noted, the professionals on that line are in a position to solve problems and solve them quickly.

This is the first I've heard that they have been declined access or can't get access electronically. We are concerned with electronic security, and we're dealing with very sophisticated, well-funded, organized criminals. A target of opportunity for them, besides retail operations, are tax preparers. They are increasingly trying to, in fact, steal the identity of tax preparers.

So one of the issues we have is security, but this is the first time I've heard that they're having trouble getting in, because they shouldn't. We should be able to provide them easy access.

Senator AYOTTE. Well, absolutely, because they are part of the solution.

Maybe, Mr. Lee, you've run into this in some of the work that you've done as well?

Mr. LEE. I actually haven't been that involved in the practitioner aspect of it, so I don't think I can comment. But I agree with the Commissioner that the practitioners need to be included since they are——

Senator AYOTTE. I hope from this hearing we can have some follow-up to what Mr. Walker is dealing with, to help professionals help their clients to solve these problems. Obviously, if someone doesn't have the benefit of having professional help, we've just got to get this right for a person on their own to be able to resolve it more easily.

Mr. KOSKINEN. As I've said—and you're exactly right, we have the possibility or the likelihood that we are intimidating to taxpayers. As our surveys have shown, if you ask taxpayers how they'd like to deal with this, the highest priority is not to have to deal with us at all.

Senator AYOTTE. Not to have to deal with it. Who wants to deal with the IRS, right?

Mr. KOSKINEN. Right, we understand that.

Senator AYOTTE. Here you have people trying to correct the record with the IRS and——

Mr. KOSKINEN. So one of the things we're trying to get people to understand and what I was surprised to learn when I became the Commissioner is the amount of time and effort we spend actually trying to help taxpayers. We have thousands of people on the phone, and their only job is to help taxpayers.

So I have said, and I mean it honestly, if you have an issue with the IRS, you're trying to correct an issue, you're just trying to figure out how to make a payment or you have problems, you've lost a job, you have other challenges, you want to create an installment payment, we want to work with you. You don't have to call somebody off late-night TV to send them your account. If you're trying to become compliant, if you're trying to work it through, we want to work with you.

If you're trying to avoid taxes, if you're trying to cheat, then we're happy to be unhappy about that, and those are the people who should be intimidated.

But we're trying to make sure taxpayers understand we really take seriously, as you noted in your opening statement, our commitment and our mission to provide effective and appropriate taxpayer service. So wherever we can improve, we're going to try to do it. As I say, with Mr. Walker, I'm going to find out. As you noted, we have working panels all around the country where we have IRS executives and enrolled agents working regularly to deal with problems.

Senator AYOTTE. I think you'd better include him on this because he's got some good——

Mr. KOSKINEN. He's already on some of them, as he noted. But we will find out, because I do think nobody is more important to us than professional preparers. As he said, they're solution providers. They can get the information. They can work with us to help expedite solutions. But even if you don't have a preparer, we are very anxious to help make it as smooth a process as possible.

Senator AYOTTE. Mr. George.

Mr. GEORGE. Thank you, Senator. Related to what the Commissioner just said, the paid preparers are the vanguard because of the amount of work and the systems they provide the IRS and to the taxpayer. But you have to be honest when you think about the complexity of the tax code. One of the tax credits that is most abused throughout the tax code is the earned income tax credit. The instructions for completing that are 30 to 40 pages long, and the average person who takes advantage of that normally does not have the wherewithal to complete that him or herself.

But keep in mind, we've estimated, as has the IRS, upwards of \$20 billion a year is sent out incorrectly under that program. Now, a lot of the people who do benefit from that are getting some assistance preparing their taxes. I'm not going to point to, and we're not in a position to point to any particular source, but you need tax preparers, whether they're paid or whether they're volunteer, to not be complicit or to follow the rules that are required now to confirm that, yes, this person does that have dependent and is eligible to apply and receive this refundable credit, which means they don't need to owe taxes in order to get the money from the Treasury through the IRS.

So complexity is important, or diminishing the complexity of completing your taxes.

Senator AYOTTE. Absolutely. And then, of course, for the additional child tax credit, you don't have to use the Social Security number for the child. We know you've issued reports on the billions of dollars that could be saved there, as well.

Mr. GEORGE. We believe, although the IRS has a very different interpretation, that the ITIN, the Individual Taxpayer Identification Number, is sufficient for that credit. We don't agree with that interpretation, but the IRS has a different point of view there.

Senator AYOTTE. Well, I have legislation filed on that piece, and I think we'll save billions of dollars if we take the step that TIGTA has recommended on that.

I wanted to make sure that we don't leave out two important issues. Number one, prevention. I know that we've heard that the Get Transcript issue, I believe you testified that the number was 350,000 potential impacts to taxpayers of personal information from how that was infiltrated. How are we going to prevent that in the future?

And then to Mr. Lee's point, with the added filtering that the IRS is putting in. We want to make sure that we're doing whatever we can to prevent identity theft. The one-in-three false positives for people who are being flagged and then put through a rigmarole, how are we going to address those pieces? So what more to ensure that something like Get Transcript doesn't happen again? And then secondly, so we don't have so many false positives?

Mr. GEORGE. I think this is important. That 350,000 figure I think is misleading because that doesn't include the dependents and others whose information is also contained—

Senator AYOTTE. So it's misleading in a—it's bigger.

Mr. GEORGE. It's a low-ball figure.

Mr. KOSKINEN. I wouldn't call it low.

Senator AYOTTE. So those are just the filers versus everyone else's information that may be impacted.

Mr. KOSKINEN. And we notify everyone on there about the issues. The Get Transcript and the false positives, these are two related issues. We could make it impossible for a criminal to have access to Get Transcript, but at the same time we'd be making it impossible for a legitimate taxpayer to have access to Get Transcript.

Even with the system in place, the criminal with all of that information still couldn't get through, but 22 percent of the taxpayers trying to get hold of transcripts can't get through because they can't answer their own questions.

So as we get better filters, we're going to have higher false positives. But the other side of the one-third false positive it means that two-thirds of those refunds stopped were fraudulent. Had we had lower false positives, we would have had fewer stops and more identity theft. When we stop it at the door, it's a lot easier to resolve your account.

Senator AYOTTE. Just so we're clear, when we're talking about filters, or we're talking about how do we stop up-front, we're talking about things like multi-step verification where I'm asked what's my mother's maiden name, all those issues.

Mr. KOSKINEN. Right. But when you file your return, we want to have a set of filters looking for anomalies to determine whether that's really your return. This year we stopped 3.2 million returns that are suspicious. Probably a third of those are going to turn out to have been real taxpayers and their refund would have been delayed. The other two-thirds, a couple of million of them, will turned out to have been fraudulent.

So the tradeoff, even on the security for Get Transcript, is how hard do you make it for a criminal to get through, at the same time you're trying not to make it hard for a legitimate taxpayer to get through.

Senator AYOTTE. So what do you think we can do more of in terms of taking steps to reduce the number of false positives—

Mr. KOSKINEN. Well, with Get Transcript, for instance, when it happened, my sense was this is a critical issue for us because going forward, as Mr. Walker said, our goal is to be able to have taxpayers have an account with us electronically, digitally, where they can, in fact, access their information. Their preparer can access their account. They can make corrections directly on their return. They don't have to file a paper return. But to do that, the authentication—that the right taxpayer is accessing the account—is critical, obviously.

So when we're looking at Get Transcript, we're not looking at it as how do we secure that application alone. We're looking at it to your question, how do we secure information about taxpayers to know that they are the right taxpayer, how do we know that the preparer is the right preparer. So we're spending a lot of time. I told a lot of people that I would rather put Get Transcript back up later, with more confidence that we've solved the problem, than rushing to get it up.

One of the things we're looking at, for instance, is that we have to make it go from wholesale to retail. That is, we're going to make limitations that if you want to get a transcript, only one transcript will be given to an IP address or a computer, and probably only one a day. So if you want to go and come back and get it again, you can't get it again in an hour. You can't get another transcript. You have to come back the next day. It's a little less convenient for preparers and taxpayers, but it's a security level.

We're thinking about, and we're investigating whether we could have you pay \$2 for the transcript using your credit card, because the credit card verification would be another authentication. In a lot of cases in terms of verification, and one of the reasons we have this partnership for the first time with the private sector, is a lot of taxpayers have their identity verified on their own. A lot of taxpayers allow their preparers to take their W-2 information directly from the company. If a taxpayer can do that with their preparer, we and the preparer have a pretty good idea that that's a legitimate taxpayer. If we can pool as many taxpayers as we can in the legitimate pool, we'll then have a smaller number that we can take a harder look at, and that's what we're hoping to do with the state tax authorities as well as the private sector.

But ultimately the bottom line is, as I say, we're dealing with organized criminal syndicates around the world. We will never be able to guarantee you that nobody is ever going to get through.

We'll never be able to stop. We're going to always have to be agile and quick and always testing the system and trying to keep ahead of, if not up with, the criminals.

Senator AYOTTE. So I want to make sure I get any thoughts from Mr. George or Mr. Lee on this. But can I just add my two cents to this idea of giving \$2 for a transcript on your credit card? With everything happening and the number of breaches that have happened in the Federal Government with OPM and everything else, I think people are going to be quite hesitant to want to give their credit card. So I hope we'll look at other ways that we can address this. That's just my two cents in hearing it.

Mr. KOSKINEN. But that's a good two cents. We wouldn't keep the numbers, and it's a great way to verify who you are.

Senator AYOTTE. I think at the moment there are a lot of issues even on the other front, not only what's happened with the Get Transcript but thinking about the OPM and the massive amount of information that we're dealing with on the theft there.

Mr. KOSKINEN. One thing we should remember, there's a big difference between what happened at OPM or Target or JPMorgan Chase and Get Transcript. Get Transcript is identity theft. Criminals had the information. OPM, Target, and the rest, Anthem, are all cyber breaches.

We're under attack, give or take a little, a million times a week. Our system is under attack, over 50 million attacks a year on cyber security. So it's a critical issue. It's just a different issue than what we're dealing with in identity theft.

Senator AYOTTE. I didn't know if either of you had a comment on the prevention piece and where we should be.

Mr. LEE. I just had a comment on the \$2 charge. I mean, I'm very comfortable using online services, and I'd be fine with that \$2 charge. But I believe, as the Senator mentioned, a lot of Americans would just be distrusting of the IRS in order to—

Senator AYOTTE. We're giving you a lot of information to start with, right? And a lot of dollars.

Mr. LEE. A lot of taxpayers don't have credit cards.

Senator AYOTTE. That's a good point.

Mr. KOSKINEN. We've thought about that, the ones who are unbanked or don't have credit cards, and we would be able to provide them a transcript. You go online and we mail it to you. But most people, when they're trying to get a mortgage or trying to get student loans, wait until the last minute, and then they need it immediately. But the point is well taken. As I say, financial institutions can decide some of their customers don't produce enough money and they can leave them aside. We don't have that luxury.

Senator AYOTTE. We can't leave anyone aside.

Mr. KOSKINEN. We have 150 million taxpayers. Even if only 3 or 4 percent of them don't like the Internet, don't have access to it, never want to use it—my mother-in-law is that way—3 to 4 percent is 6 million people, and we need to be able to provide them appropriate levels of service no matter what else we do. So as we go forward in a digital economy, we're not going to leave those people behind.

Senator AYOTTE. So I want to make sure—I think prevention, anything we can do to, obviously, improve technology, and we're headed at least in a direction——

Mr. LEE. I've got some thoughts on prevention, and this is probably outside the scope of what my boss would be comfortable for me to testify about.

Senator AYOTTE. That's why—he's not here, right?

Mr. LEE. Okay. I'd like to just make a comment. We talked about moving up the deadline for information reporting so the IRS can verify that information. But I think we also need to talk about moving back the filing season and the issuance of refunds. So instead of taxpayers expecting to get refunds in January or February, I think we need to talk about having them wait until the summer so the IRS has a chance to look at the information that it collects in March.

Senator AYOTTE. This one won't be popular.

Mr. LEE. It won't be popular, but I think that's something we need to have a conversation about, but I don't want to bring it to the table. You can foot that idea.

Senator AYOTTE. I think the challenge there is that when it's thousands of dollars for some families, that six months could be something that they've planned, it could be something that's really important to them.

I had a constituent who their family went through difficulties, they were the victims of identity theft, and like your office does, trying to work with them to get their refund sooner because they thought they were going to lose their mortgage because they just happened to go through a bump on some other things that were happening and that was so critical, and if they had to wait. I think that's one of the challenges that identity theft victims are dealing with because for some people, depending on what's happening in their lives, it's a lot of money and makes a big difference.

Mr. LEE. Right, it's a big percentage of their annual income that——

Senator AYOTTE. That's being held. It's their money. Exactly.

Mr. KOSKINEN. So again, the tradeoff is that you're trying to protect everyone, because if we could have no one be a victim of identity theft, that would obviously be terrific. So it's, again, a tradeoff. There may be some inconvenience along the way to, in fact, try to increase the protection. So before Mr. Lee gets dismissed for his idea, people will build their lives around when they get their refund. If in one year everybody moved from January/February to, say, March or April, not June, then they'd count on their refunds in March or April, and we've begun to look at it and say what would that do? Would that make a significant difference in our ability to protect everybody?

There is no idea that is not under consideration, and that's why these partnerships are wonderful, because we're open to ideas from other people as well, because there isn't a single silver bullet. The partnership, we hope, with preparers and state tax agencies will give us coordinated layers that criminals have to work through. But it will take everybody's best thoughts for us to continue to make progress.

Senator AYOTTE. And I really appreciate all the patience and these questions. I want to make sure I follow up on all the issues that have been raised. One of them was this issue that those who have been victims of identity theft, many of them can get the IP PIN number to make sure when they re-file that they don't become re-victimized. I heard that there was a big gap, I believe 530,000 taxpayers not provided these IP PINs that may be eligible for it that may need them. So how is this program working? Why aren't some taxpayers being given access to it?

One couple asked me on the way in here today if they've been a victim of identity theft and they file the next year with the IP PIN program, is this something they're going to be continuing and able to do?

Mr. KOSKINEN. Yes.

Senator AYOTTE. So it's not one year but they have that protection if they want to have it going forward.

Mr. KOSKINEN. Yes. A lot of good questions in there. The IG has been very helpful to us over the years in reviewing and giving us suggestions, and we've adopted most of those, implemented most of their suggestions in this entire area.

On the issue of IP PINs, the issue really was not so much people who had actually been victims but people whose records had been flagged.

Senator AYOTTE. So it would be victims or potential victims.

Mr. KOSKINEN. People where there was suspicious activity in their account. There were 1,700,000 of those. So this year for the first time, we took that recommendation and sent out 1.5 million IP PINs to known victims. We offered another 1.7 million Americans IP PINs where their accounts had been flagged. They hadn't necessarily been victims but it was clear there was an issue.

Similarly with Get Transcript, we offered everyone where there was any access to their transcript an IP PIN. Now, your point about it, we're considering right now that once you have an IP PIN, it's yours and you should actually use it every year, and each year we send you a new one. We're now looking at, well, could we give them to you for three years so every year you don't have to worry about if I move, does my IP PIN follow. But if you've signed up for it, or you have to use the IP PIN, and it goes for a while.

The other thing we're looking at is after a number of years, and we know because we track, that even after we've stopped a return, the next year the fraudsters come back in a reasonable percentage of cases. So the IP PIN protection is very important.

Senator AYOTTE. Right, because once you've been victimized once—I have to say, my uncle was a victim of tax-related fraud too, and he wasn't just victimized once. It was twice.

Mr. KOSKINEN. Yes, because what happens is—and especially when we've stopped them, you'd think, well, why would they file again? But it's not as if there's a single person out there. This data is out there and available to people, and it's being sold.

Senator AYOTTE. Yes, it's a criminal network using your data because it's out in this—

Mr. KOSKINEN. So it may be a new network that buys a whole pool of Social Security numbers from other crooks, and they don't know—nobody is telling them this is a good Social Security num-

ber. They're just selling them—here's a thousand. So the IP PIN—we encourage people to use it.

We have a pilot program we've run for two years in Florida, Georgia, and the District of Columbia, which are the hotbeds of SIRF, offering everyone in those states the opportunity to—

Senator AYOTTE. I'm starting to feel New Hampshire is a hotbed, unfortunately.

Mr. KOSKINEN. You ought to go to Florida.

So we're running pilots. The reason we're running these pilots is to see what the uptake is, what the cost is, what the burden is, because it is a way, in effect, of changing your identifier from your Social Security number to a number that only you and we have.

Senator AYOTTE. Right. And I know Mr. George wanted to jump in.

Mr. GEORGE. Just to make this point about something perverse with all of this. And that is, again, if you don't have a filing obligation, and if the bad guy does assume your identity, believe it or not, the IRS communicates with the bad guy using the address the bad guy provides. So the senior citizen or somebody who otherwise doesn't have a filing obligation is just completely unaware that all of this is happening. And I don't fault the IRS necessarily here, but they have a very difficult job, Senator. As the Commissioner pointed out, they have to keep up with these very smart, overseas many of them, bad guys who are constantly thinking of new ways to manipulate the system, and it's a very difficult task.

Senator AYOTTE. This issue of the pilot, you notified 25,000 taxpayers when you learned that their Social Security number may have been misused. Is this something that you plan to implement with everyone? That's been a piece of our legislation, that if the IRS knows that your Social Security number may have been misused. Often I'm hearing from taxpayers that they're finding it out when something happens to trigger it, whether they're filing their tax return or some other action. Maybe it's a credit issue or something. It's pretty valuable information, I think, for people to know as soon as possible to protect themselves.

So what's your thought on that?

Mr. KOSKINEN. As I say, this year, for anybody whose account has been flagged but is not necessarily a victim of identity theft, that 1.7 million we've written to and said that there's an indication of fraud, you can get an IP PIN if you would like one.

Similarly, the purpose of this pilot is to, in fact, see what the burden is, what the take-up rate is, because as a general matter the risk for a taxpayer is not—I mean, it's a risk and an aggravation when you're an identity theft fraud victim, but they're not getting any more information from us about you. The risk is that they already have that information. So what we're trying to figure out is how do we let you know that even if you're not a victim of identity theft, you need to know that information is out there and being used by criminals. If you're not a victim of identity fraud, and even if you are, it doesn't affect your relationship. We'll work it out. The risk is it's being used also for other issues.

Senator AYOTTE. Oh, it puts people at risk. So I would hope that—

Mr. KOSKINEN. Our goal is to do whatever we can, and the pilot will do that, to try to help people, even though it won't be in relation to us. But we just feel it's important for them to know that we have an indication that your data is out there being used by criminals.

Mr. LEE. My understanding is that this recommendation was raised at the executive steering committee level this summer, so we're hopeful that the IRS will expand the program for all taxpayers, not just the 25,000.

Senator AYOTTE. Good. I hope so, too. And if not, we have legislation that would make sure that—we want people to know so that they can protect themselves.

You've had the opportunity to hear from Ms. Weeks and also Mr. Walker, and I can assure you that they're representative of many people who are in this room and what they've gone through, but many people who can't be here today with this issue. It is my hope that the issue of getting the fraudulent return so the taxpayer can understand what's been used, that that will be resolved as soon as possible. You gave me a date of October, and we'll be following up on that.

Mr. KOSKINEN. We'll be talking.

Senator AYOTTE. We'll be talking on that. I heard, Commissioner, that you want to get to an issue where the taxpayer is not getting the run-around and having to deal with multiple people if they're a victim of identity theft, and this seems to me a critical issue that we've got to do much better on so that people aren't getting re-victimized after they've gone through having their personal information stolen.

And finally, I hope that any time the IRS knows that someone's information is being misused, that they will notify them and that will be something that is adopted for all taxpayers.

There are a number of other issues that were raised here, and I think Mr. Walker has an invitation there to allow the professional community to help solve this problem too, to allow them to have access to the taxpayer information for their clients in appropriate ways to be able to solve this.

So there were a number of issues that were raised today.

I want to thank all of you for being here. I especially want to thank again Ms. Weeks and Mr. Walker. I plan to continue, obviously, working on this issue. I feel quite passionate about it, and we can do a lot better for taxpayers on every front, on prevention, and also how they are treated if, unfortunately, they become a victim of identity theft. This is a very critical issue.

As you pointed out, Commissioner, we are facing a number of cyber-attacks that make this continue to be criminal networks who are misusing people's information, and I think we need to do everything we can on the law enforcement end to go after them as well.

So with that, I'm going to conclude this hearing. I may leave the record open for some additional written follow-up questions, and I appreciate your traveling to New Hampshire today for this hearing.

Before we end, I just want to very much thank the Budget Committee staff who have come here, Adam Kamp and Katie Smith and my own staff member, Marne Marotta. I would also say if my staff who are here, Anne Warburton and Jane Hirsch, they work

on these cases on behalf of my constituents, and anyone who would like some help from our office, I do have my representatives here today and we would very much like to help you if you are a victim of identity theft to try, to cut through some of the rigmarole that we've talked about today.

So, thank you all.

[Whereupon, at 4:30 p.m., the hearing was adjourned.]

Questions for the Record
from Senator Kelly Ayotte
for the Honorable J. Russell George,
Inspector General for Tax Administration, Department of the Treasury
Senate Budget Committee Field Hearing on
Tax-related Identity Theft and Fraudulent Tax Returns
August 26, 2015
Senate Budget Committee

Question #1:

In an April 2015 report, TIGTA found that many Individual Taxpayer Identification Number (ITINs) are being used to file tax returns for which there is no support for the income and withholding reported. In a May 2015 report, TIGTA also found that the IRS lacks the tools or expertise to authenticate foreign documents that are used to support ITIN applications. So it would seem to me that the ITIN process has a lot of potential for tax fraud.

What is the IRS doing to ensure that ITIN's are valid? If the IRS cannot validate ITIN's, how can it issue refundable tax credits to ITIN holders?

Answer: The IRS has been taking action since 2012 to strengthen controls over the issuance of ITINs. As noted in our May 2013 report,¹ the IRS has initiated corrective actions to address seven of the nine deficiencies identified in a prior TIGTA audit,² which has allowed it to significantly improve its identification of questionable ITIN applications. Our tests showed that the new requirements and the corrective actions implemented have improved IRS tax examiners' ability to identify and reject questionable ITIN applications. However, additional processes and procedures are still needed.

For example, as noted in our April 2015 report,³ despite our continued identification that many ITINs are being used to file tax returns for which there is no support for the income and withholding being reported, the IRS continues to delay and/or change its actions and criteria for deactivating ITINs assigned to individuals with no filing requirements. We recommended that the IRS outline specific actions and time frames for the implementation of a process to deactivate the ITINs assigned to individuals prior to January 1, 2013. This should include those processes to identify and deactivate the ITINs assigned to individuals who are now deceased.

Further, in our May 2015 report,⁴ we noted that in January 2014, the IRS revised its tax examiner review guidelines by adding procedures for reviewing copies of documents certified by other foreign issuing agencies (e.g., the Canadian Passport Office). However,

¹ TIGTA, Ref. No. 2013-40,052, *Review and Verification of Individual Taxpayer Identification Number Applications Has Improved; However, Additional Processes and Procedures Are Still Needed* (May 2013).

² TIGTA, Ref. No. 2012-42-081, *Substantial Changes Are Needed to the Individual Taxpayer Identification Number Program to Detect Fraudulent Applications* (July 2012).

³ TIGTA, Ref. No. 2015-40-026, *Efforts Are Resulting in the Improved Identification of Fraudulent Tax Returns Involving Identity Theft* (Apr. 2015).

⁴ TIGTA, Ref. No. 2015-40-038, *Tax Examiners Do Not Have the Tools or Expertise to Authenticate Documents Certified by a Foreign Issuing Agency* (May 2015).

we recommended that the IRS provide tax examiners with reference materials that they can use to verify the authenticity of copies of documents certified by a foreign issuing agency. We also recommended that the IRS develop detailed procedures for and deliver adequate training to tax examiners on verifying the authenticity of copies of documents certified by a foreign issuing agency.

Eligibility for the Earned Income Tax Credit (EITC) is dependent on a number of criteria, including a Social Security Number (SSN). To claim the EITC, taxpayers must have a valid SSN for themselves, their spouse, and each qualifying child. The IRS does not require an SSN in order for a taxpayer to be eligible for the Child Tax Credit (CTC) and Additional Child Tax Credit (ACTC). Based on the IRS's interpretation of the law, taxpayers with an ITIN can claim the CTC and ACTC. To qualify for the CTC, a taxpayer must have a qualifying child. Children must be claimed as a dependent on the tax return and meet other specific eligibility tests, such as relationship, age, filing status, and support to be considered a CTC qualifying child. In addition, taxpayers who claim children that have an ITIN must also show that the child meets the qualifying eligibility tests of substantial presence in the United States.

How can the IRS address this issue? Are there any legislative fixes needed to address this issue?

Answer: We have identified non-legislative actions that the IRS can take to address this issue. As noted in our May 2015 report, implementing processes to deactivate ITINs will assist the IRS in reducing the likelihood that the ITIN could be used to file a fraudulent tax return. Such a process would support the IRS's policy that an ITIN is intended for tax purposes only and creates no inference regarding an alien individual's right to be legally employed in the United States or that individual's immigration status, *i.e.*, the ITIN does not authorize a foreign individual to work or live in the United States.

In June 2014, the IRS announced a new policy stating that ITINs will expire if not used on a tax return for any year during a period of five consecutive years rather than the original policy that an ITIN would expire after five years. We plan to address the IRS's implementation of this new policy and the effects on reducing fraud during a future audit. When discussing the results of our analysis of Tax Year (TY) 2012 tax returns, the IRS advised us of its plans to implement a process to deactivate the ITINs for deceased taxpayers when identified on final individual tax returns. Doing so should help the IRS continue to reduce the number of potentially fraudulent tax returns filed using an ITIN.

The IRS could also continue to expand the use of computer filters and fraud models to identify and stop potentially fraudulent refunds before they are issued. Additionally, the IRS could implement an account indicator to identify taxpayers claiming erroneous refundable credits and require them to provide documentation to support these claims.

Question #2:

TIGTA has identified several areas where the IRS could achieve cost savings, including better managing its real property costs, expanding electronic filing for business returns, adhering to Federal requirements and industry best practices to effectively manage server software licenses, and using the same processes used to

verify originally filed tax returns to verify amended tax returns.

Could you give me an estimate of how much money the IRS could save by implementing TIGTA's recommendations? Are there other opportunities for the IRS to more efficiently use its available resources?

Answer: TIGTA has reported on numerous areas where the IRS can achieve cost savings, more efficiently use its limited resources, and make more informed business decisions. For example, TIGTA determined that the IRS paid monthly service fees for almost 6,800 wireless devices that were not captured in inventory records.⁵ Because these devices are not tracked in inventory, the IRS does not have assurance that the employees using them have a valid business need. While service fees associated with almost 6,800 devices may be justifiable, the IRS is not in a position to determine which fees are valid because inventory and billing records cannot be reconciled. The annualized cost equates to nearly \$2 million in service fees for devices that were not inventoried in Fiscal Year (FY) 2013.

TIGTA reported in August 2012 that the IRS can achieve additional cost savings by better managing its real property costs. Specifically, TIGTA reported that the IRS completed 17 space consolidation and relocation projects from October 2010 through December 2011, which the IRS estimated would result in \$2.8 million of realized rent savings in FY 2012. However, the IRS continues to incur rental costs for more workstations than required. TIGTA estimated that if the employees the IRS allows to routinely telework on a full- or part-time basis shared their workstations on days they were not in the office, 10,244 workstations could potentially be eliminated. The sharing of these workstations could allow the IRS to reduce its long-term office space needs by almost one million square feet, resulting in potential rental savings of approximately \$111 million over five years.⁶

In September 2014, TIGTA also reported that potential cost savings could be achieved from expanded electronic filing of business returns.⁷ IRS efforts have resulted in considerable growth in the electronic filing of individual tax returns, which stood at an 81 percent rate in Processing Year 2012. In comparison, the electronic filing rate of business tax returns in TY 2012 was 41 percent. Employment tax returns provide the most significant opportunity for growth in business electronic filing. For TY 2012, more than 21.1 million (71 percent) employment tax returns were paper-filed. The Electronic Federal Tax Payment System (EFTPS) has been used in the past to facilitate the e-filing of employment tax returns for Federal agencies. TIGTA recommended that the IRS consider this option for business taxpayers.

In September 2014, TIGTA reported that the IRS does not effectively manage server software licenses and is not adhering to Federal requirements and industry best practices. Until the IRS addresses these issues, it will continue to incur increased risks in managing software licenses. TIGTA estimates that the inadequate management of server software licenses

⁵ TIGTA, Ref. No. 2014-10-075, *Wireless Telecommunication Device Inventory Control Weaknesses Resulted in Inaccurate Inventory Records and Unsupported Service Fees* (Sept. 2014).

⁶ TIGTA, Ref. No. 2012-10-100, *Significant Additional Real Estate Cost Savings Can Be Achieved by Implementing a Telework Workstation Sharing Strategy* (Aug. 2012).

⁷ TIGTA, Ref. No. 2014-40-084, *A Service-Wide Strategy Is Needed to Increase Business Tax Return Electronic Filing* (Sep. 2014).

potentially costs the Government between \$81 million and \$114 million, based on amounts spent for licenses and annual license maintenance that were not being used.⁸

We have also reported that the IRS could achieve efficiencies through improved processing of amended returns. TIGTA estimates that the IRS may have issued more than \$439 million in potentially erroneous tax refunds claimed on 187,421 amended returns in FY 2012. Currently, amended tax returns can only be filed on paper and are manually processed. TIGTA's review of a statistical sample of 259 amended tax returns identified 44 tax returns (17 percent) with questionable claims. TIGTA reported that the processes the IRS uses to verify originally filed tax returns would have identified most of the 44 questionable amended returns TIGTA identified as needing additional scrutiny before the refund was paid. TIGTA forecasts that using these same processes could prevent the issuance of more than \$2.1 billion in erroneous refunds associated with amended tax returns over the next five years. In addition, TIGTA reported that the IRS could have potentially saved \$17 million in FY 2012 if it allowed taxpayers to electronically file amended tax returns.⁹

TIGTA has also identified other opportunities for the IRS to more efficiently use its available resources. For example, TIGTA identified potential improvements in the efficiency of the Automated Collection System (ACS).¹⁰ The ACS plays an integral role in the IRS's efforts to collect unpaid taxes and secure unfiled tax returns. ACS employees are responsible for collecting unpaid taxes and securing tax returns from delinquent taxpayers who have not complied with previous notices. They also answer incoming telephone calls and work identity theft cases. The number of ACS contact representatives in FY 2013 was 39 percent less than in FY 2010 due either to attrition or reassignment. This resulted in fewer resources available to devote to the collection of unpaid taxes. However, the IRS's overall collection inventory practices were not changed to reflect the reduced workforce and, as a result, new inventory continued to be sent to the ACS without interruption, even though inventory was infrequently worked. This has had a substantial impact on the amount of Federal taxes that remain uncollected.

TIGTA also found that the IRS's fieldwork collection process is not designed to ensure that cases with the highest collection potential are identified, selected, and assigned to be worked.¹¹ Although the IRS has begun some initiatives intended to improve the workload selection process, TIGTA believes further action is warranted.¹² With significant growth in delinquent accounts and a reduction in the number of employees, it is essential that the field inventory selection process identifies the cases that have the highest risk and potential for collection.

⁸ TIGTA, Ref. No. 2014-20-042, *The Internal Revenue Service Should Improve Server Software Asset Management and Reduce Costs* (Sept. 2014).

⁹ TIGTA, Ref. No. 2014-40-028, *Amended Tax Return Filing and Processing Needs to Be Modernized to Reduce Erroneous Refunds, Processing Costs, and Taxpayer Burden* (Apr. 2014).

¹⁰ TIGTA, Ref. No. 2014-30-080, *Declining Resources Have Contributed to Unfavorable Trends in Several Key Automated Collection System Business Results* (Sept. 2014).

¹¹ The IRS's Collection function has the primary responsibility for collecting delinquent taxes and tax returns while ensuring that taxpayer rights are protected.

¹² TIGTA, Ref. No. 2014-30-068, *Field Collection Could Work Cases With Better Collection Potential* (Sept. 2014).

Question #3:

In a March 2015 report, TIGTA found that identity theft victims' cases were assigned to an average of 7 assistors prior to the case being resolved.

TIGTA also noted that frequent case transfers contributed to case inactivity and processing delays – with inactivity on cases averaging 254 days, or almost 9 months.

What can the IRS do to reduce reassignments and to reduce inactive periods?

Answer: In our March 2015 report,¹³ we recommended that the IRS analyze its identity theft case reassignments and revise inventory management processes to reduce the number of times cases are reassigned. We also recommended that the IRS develop a comprehensive identity theft training course for assistors to ensure they are capable of handling complex cases so that managers do not delay case assignment waiting for a trained assistor.

The IRS informed us that identity theft cases are complex and management is more interested in identifying a trained employee to work an identity theft case than the number of case reassignments. Thus, cases can remain in a manager's inventory, unassigned to an assistor, until the manager finds an available identity theft trained assistor.

¹³ TIGTA, Ref. No. 2015-40-024, *Victims of Identity Theft Continue to Experience Delays and Errors in Receiving Refunds* (Mar. 2015).

